HUMAN RIGHTS DEFENDER
OF THE REPUBLIC OF ARMENIA

2020

ANNUAL REPORT

ON THE ACTIVITIES OF THE HUMAN RIGHTS DEFENDER OF THE REPUBLIC OF ARMENIA AS THE NATIONAL PREVENTIVE MECHANISM

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INTRODUCTION

The Constitution of the Republic of Armenia, as well as the internationally renowned documents ratified by Armenia, declare the absolute prohibition of torture, inhuman or degrading treatment, from which proceeds the continuous implementation of appropriate set of measures in accordance with internationally accepted requirements and criteria.

From the perspective of absolute prohibition of torture, its prevention is of key importance, which, in turn, presupposes a complex of periodical and systematic measures both at the legislative and practical levels. From the perspective of both effective investigation of torture cases and prevention of torture, the coordinated work of all competent state institutions with specific functions is fundamental.

For the purpose of prevention, international legal instruments provide for special prevention mechanisms, both nationally and internationally, with the necessary powers. ''The United Nations Optional Protocol to the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment'', adopted on the 18th of December, 2002 (hereinafter, the Optional Protocol) provided for the establishment of an independent national mechanism, which should have broad mandate, unrestricted access to all places where people may be deprived of their liberty and make appropriate examinations.

The status of the National Mechanism for the Prevention of Torture is entrusted to the Human Rights Defender of Armenia. The activities of the Human Rights Defender in this sphere are aimed at protecting every person in the country from torture, degrading or inhuman treatment and punishment, which in the collective sense is called ill-treatment. The issue is particularly sensitive as it refers to places where persons are deprived of their liberty (penitentiary institutions, places for keeping arrestees, psychiatric organizations, etc.) and are held against their own will. These are special places where people rely on the care and protection of administrations, which requires special attention and professional approaches to working practices.

The Human Rights Defender's activities in this capacity, who in collaboration with partners from other countries and international organizations have contributed to the development of best practices, have internationally deserving recognition. The Human Rights Defender, as the National Preventive Mechanism, has a significant role in designing international human rights standards.

After the ratification of the Optional Protocol, the Law of the Republic of Armenia ''On the Human Rights Defender'' adopted on the 21st of October, 2003, was supplemented by Article 6.1, by which the Human Rights Defender of the Republic of Armenia was recognized as an Independent National Preventive Mechanism in 2008, but it doesn't predetermine clearly the Defender's status in this regard, the guarantees for providing that status, the circle of places for deprivation of liberty and cooperation with the civil society .

Due to the constitutional amendments, made on the 6th of December, 2015, the National Assembly of the Republic of Armenia adopted the RA Constitutional Law ‘’On the Human Rights Defender’’ (hereinafter, the Constitutional Law) on the 16th of December, 2016, where pursuant to Part 2 of Article 2, the Human Rights Defender has been entrusted with the mandate of the National Preventive Mechanism envisaged by the Optional Protocol.

Article 28 of the Constitutional Law already defines the powers of the Human Rights Defender as the National Preventive Mechanism, as well as provides a clear framework of places of deprivation of liberty. According to Article 27 of this law, the objectives of the Defender's functions as the National Preventive Mechanism is to prevent torture and other cruel, inhuman or degrading treatment in places of deprivation of liberty.

As the National Preventive Mechanism, the Human Rights Defender's activities are carried out in strict accordance with the principles of impartial, apolitical and professional work, in close cooperation with public bodies, civil society and international partners. The functions of the National Preventive Mechanism are provided by the Department for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as by independent experts from the National Preventive Mechanism. The basic principles and directions of the performance are presented below in this report.

Cooperation with civil society is an integral part of the National Preventive Mechanism. This is primarily manifested by the activities of the Torture Prevention Board adjunct to the Human Rights Defender, which includes representatives of Non-governmental Organizations specialized in the prevention of torture and ill-treatment, and independent experts from the similar fields of activity.

In 2020, Armenia faced a number of serious challenges. The spread of the novel Coronavirus (COVID-19) has significantly affected human rights in the country, causing many restrictions on the normal course of human life.

Along with this world-wide pandemic, Armenia faced another catastrophe; since 27 September 2020, the large-scale war unleashed by the Azerbaijani armed forces against Armenia and Artsakh has grossly violated the tens of thousands of civilians' rights to life, health, property and other vital needs. War crimes against humanity and mass destruction of peaceful settlements were committed against the Armenians of Artsakh through the policy of genocide through ethnic cleansing and terroristic methods. The years-long policy of propagating ethnic hatred and enmity in Azerbaijan during the War of September-November 2020 led to the torture and ill-treatment towards Armenian servicemen and civilians with exceptional cynicism, (beheadings of people while being alive, particularly crual violence, murders, blasphemy of bodies, etc.). The videos of these atrocities, shot by Azerbaijani servicemen, as well showed hatred on religious grounds.

The situation in the country inevitably affected the work of the National Preventive Mechanism.

In this difficult crisis situation, due to the high level of institutional development and professional qualities, the functions of the National Preventive Mechanism have been carried out with even greater vigilance and responsibility, as well as with the maximum usage of professional approaches. This approach and its results are accordingly presented in the following chapters of this report.

CHAPTER 1. BASIC PRINCIPLES AND STRATEGIC DEVELOPMENT DIRECTIONS OF THE NATIONAL PREVENTIVE MECHANISM

After the entry into the force of the Constitutional Law of the Republic of Armenia "On the Human Rights Defender'', the Human Rights Defender has been entrusted with the mandate of the National Preventive Mechanism , based on the internationally accepted principles, which is complemented with the functions of the Ombudsman effectively.

Various subdivisions of the Human Rights Defender's Office implement the discussion of the individual complaints and of the issues on their own initiative, which enables to raise issues related to specific situations in places of deprivation of liberty, and monitoring under the mandate of the National Preventive Mechanism allows the entire system to be examined regardless of complaints.

Individual cases emerged during the monitoring are referred to the subdivisions that are reviewing them and, on the contrary, systematic issues raised by individual complaints are brought to the attention of the subdivision of the Preventive Mechanism - providing a flexible system of information exchange.

For the purposes of implementation of the functions of the National Preventive Mechanism within the Human Rights Defender's Office, the Department for the Prevention of Torture and Ill-Treatment operates as a separate subdivision.

Lawyers, as well as a doctor, are involved in the work of the Department. In order to demonstrate the necessary professional approaches to the scientific field in the work of the National Preventive Mechanism, the Human Rights Defender also involved independent specialists, representatives of the scientific field and/or NGOs in the activities of the preventive mechanism, who have the status of National Preventive Mechanism expert (a psychologist, a sociologist, physicians, including: a psychiatrist).

Independent experts are involved in the work of the National Preventive Mechanism on contractual basis, which allows not only to pay for their work, but also reimburse other expenses incurred during the performance of the work and working visits .

The work schedule of the experts of the National Preventive Mechanism and codes of conduct have been established by the order of the Human Rights Defender. These documents have regulated the principles of experts' functions and precise codes of conduct, the precise duties of experts in the phases of preparation, implementation and summing up of the monitoring visits, the prohibition on publishing information known to experts within the framework of the National Preventive Mechanism during their implementation and out of them. The probability for experts' simultaneous engagement in other groups implementing monitoring, as well as the possibility of conflict of interests have been excluded.

The Constitutional Law defines the guarantees for the activities of officials of the Human Rights Defender's Office and of the experts of the National Preventive Mechanism. Thus, officials of the Human Rights Defender's Office and the experts of the National Preventive Mechanism can give explanations or be interrogated on the nature of the applications or the complaints addressed to the Human Rights Defender or the decisions made by the Human Rights Defender as a result of the investigation of complaints, as well as provide them to other persons for acquaintance only with the written consent of the Human Rights Defender (See: Part 2 of Article 11 of the Constitutional Law).

Article 332.1 of the Criminal Code of the Republic of Armenia provides for liability for restricting the exercise of the authority of the Human Rights Defender, including denying unrestricted access them to any place, or to a competent person acting on their decision.

The financial guarantees of the National Preventive Mechanism have also been strenghtened by the Constitutional Law as specific funding requirements for the operation of the Defender acting as the National Preventive Mechanism. In this regard, it is especially important that due to the requirement of the new Constitutional Law, the amount of budgetary allocation for the Defender acting as the National Preventive Mechanism cannot be less than the amount of the previous year's allocation from the state budget. (See: Part 5 of Article 8 of the Constitutional Law).

Due to this norm, the status of the Human Rights Defender of Armenia and, first of all, the National Preventive Mechanism is considered an example of international best practice. Moreover, they are offered to other countries while establishing relevant institutions.

The spread of the novel Coronavirus (COVID-19), which has become a major global challenge in 2020, and the resulting human rights restrictions in the country, especially in places of deprivation of liberty, have been the focus of the National Preventive Mechanism. Following the unleashing of large-scale hostilities by Azerbaijan on the 27th of September, 2020, martial law was declared in Armenia on the same day. In these extremely sensitive and difficult conditions, themonitoring activities of the National Preventive Mechanism were implemented with a specially-desinged methodology.

The above-mentioned objective factors required thorough implementation of professional work. In the case of such emergency situations, certain methodological changes have been made in the works of the National Preventive Mechanism. Special attention has been paid to the issues raised by persons deprived of their liberty, their relatives and legal representatives through individual complaints and telephone calls, which have been analyzed in detail and summarized within the framework of the National Preventive Mechanism. In this regard, the materials and the studies published by the mass media, international institutions, as well as non-governmental organizations were important sources of information, which has also become the subject of a separate analysis and evaluation.

While implementing its work, the subdivision of the National Preventive Mechanism has been guided by international standards for the protection of the rights of persons deprived of their liberty in the

conditions of the novel Coronavirus (COVID-19) pandemic, by the experience of partner organizations of other countries, etc.

In this context, the European Committee for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment (hereafter, CPT) has developed urgent principles referring to persons deprived of their liberty in connection with the novel Coronavirus (COVID-19) pandemic. Taking into account their importance, the Human Rights Defender's Office translated those principles into Armenian[1] and sent them to all the relevant state bodies of the Republic of Armenia, urging them to use also alternative measures to deprivation of liberty. The Human Rights Defender's Office translated into Armenian and published the 2020 recommendations of the Subcommittee on Prevention of Torture of UN to the member states and to the National Preventive Mechanisms related to the novel Coronavirus (COVID-19) pandemic [2].

In addition to applying for the standards of these international organizations, discussions have been held with these international organizations and with the National Preventive Mechanisms of other countries. For example, the Human Rights Defender of the Republic of Armenia was invited to prepare an *ad hoc* report.

It should be noted that in 2020 the subdivision implementing the functions of the National Preventive Mechanism has maintained a permanent contact with partner state bodies. The work has been primarily manifested by the close working cooperation.

For example, there have been effective discussions on various issues with the Police, the Penitentiary Service of the Ministry of Justice, the Prosecutor General's Office, the National Security Service, the Ministry of Labor and Social Affairs, and so on.

During the year, they were addressed with various letters regarding the steps taken to prevent the spread of the novel Coronavirus (COVID-19) in places of deprivation of liberty, to avoid adverse consequences, and to clarify and to make appropriate recommendations.

All the information received was discussed in the context of planning the visits and other monitoring activities of the National Preventive Mechanism. In particular, before each visit, the issues related to the spread of the novel Coronavirus (COVID-19) at the place of deprivation of liberty were assessed; whether positive cases of infection were found was clarified, and the number of persons belonging to high-risk groups (elderly persons, chronically ill persons, etc.), the living conditions of the places where persons deprived of their liberty are kept, and the working mechanisms of the prevention of infection

[1] See: https://rm.coe.int/16809e0703 webpage, as of 31.03.2021.

[2] See: https://ombuds.am/images/files/71cf882e8830c0bfb935c7759bd5a25a.pdf webpage, as of 31.03.2021.

and other features were taken into consideration. The visits were carried out in strict compliance with the epidemiological rules.

In the context of the novel Coronavirus (COVID-19) pandemic, the activities of the National Preventive Mechanism have been implemented by taking into consideration the principle of non-harm in order to prevent the spread of the disease among persons deprived of their liberty and not to endanger the health of the representatives of the Human Rights Defender's Office. At the same time, the monitoring activities required special caution, for which, visits were carried out with individual protective measures obtained for the representatives of the Human Rights Defender's Office. Moreover, a training on the correct use of individual protective measures was organized for the representatives of the National Preventive Mechanism, which was conducted by a representative of the National Center for Disease Control and Prevention of the Ministry of Health of the Republic of Armenia.

Within the framework of the abovementioned issues, special discussions were held with the participation of the staff and the experts of the subdivision of the National Preventive Mechanism aimed at clarifying the principles and methods of the activities in a specific place of deprivation of liberty, especially taking into consideration the issues of the spread and prevention of the novel Coronavirus (COVID-19) pandemic.

According to the risk assesment of persons kept in the places of deprivation of liberty, it was determined what individual protective measures were required. For example, a full range of the mentioned measures was used during visits to psychiatric organizations, as persons infected with the novel Coronavirus (COVID-19) , as well as those at high risk for the novel Coronavirus (COVID-19) especially the older persons and persons with chronic illness, were kept in those places.

At the same time, before each visit, the available information on the institutions, the previously recorded problems, as well as the level of implementation of the proposals for their solution were summarized.

During the visits, the maximum efforts have been made to gather as much information as possible, specifically about issues related to the novel Coronavirus (COVID-19) pandemic and the applied legal regimes conditioned by it. For that purpose, the Human Rights Defender’s representatives were guided by a new internal guideline on the implementation of monitoring activities at certain places of deprivation of liberty developed by the subdivision implementing the functions of the National Preventive Mechanism and which refers to the novel Coronavirus (COVID-19) pandemic-related issues in places of deprivation of liberty. This guideline is compiled on a basis of the standards of internationally renowned organizations, taking into account the current issues in connection with the spread of the novel Coronavirus (COVID-19).

There were private interviews with persons deprived of their liberty and with the employees of those places, which were carried out by maintaining social distance, and if possible, in open spaces. All the

necessary documents have been examined. During the visits, the representatives of the National Preventive Mechanism used equipments to measure space, temperature and humidity.

The presumption of trust towards persons deprived of their liberty and the principle of risk assessment of their behaviour continued to be a fundamental approach at the core of the activities of the National Preventive Mechanism. This means that each person kept at the place of deprivation of liberty must be treated individually, regardless of the seriousness and nature of their acts, based on assumption or confirmed by adjudication. One of the basic principles of the National Preventive Mechanism is the involvement of persons deprived of their liberty in decision-making related to them. At the same time, special attention is paid to the confidentiality of information obtained as a result of activities carried out in places of deprivation of liberty.

During the visits, the representatives of the National Preventive Mechanism hung informative posters on the activities and mandate of the National Preventive Mechanism in the places of deprivation of liberty, and the persons deprived of their liberty were provided with informative leaflets.

The results of the visits to places of deprivation of liberty, as well as the studies and analysis of the National Preventive Mechanism together with the immediate proposals for the solution of the recorded problems, were presented to the competent state bodies.

During 2020, 34 monitoring visits of the National Preventive Mechanism were carried out, 10 of which were periodic ones and 24 as needed. 10 regular visits were made to police stations and places for keeping arrestees and detainees (6 visits), penitentiary institutions (2 visits), psychiatric institutions (2 visits). It should be noted that, unlike the visits of the Human Rights Defender Office with with the status of the Ombudsman, visits of the National Preventive Mechanism are fundamental and can last more than a day in a single institution.

It should be noted that the Human Rights Defender, within the framework of the National Preventive Mechanism, addressed the issues related to the restriction of human rights, especially the right to personal liberty, during the state of emergency conditioned by the novel Coronavirus (COVID-19) pandemic. After the declaration of a state of emergency by the Government of the Republic of Armenia on the 16th of March, 2020[3], the draft amendments in legal acts conditioned by the pandemic were submitted to the Human Rights Defender, taking into consideration their independent status and important role in the field of activities of the protection of human rights and prevention of torture.

[3] Decision N 298-N of the Government of the Republic of Armenia of 16 March, 2020 "On Declaring a State of Emergency in the Republic of Armenia".

The Human Rights Defender has repeatedly emphasized that the regimes of isolation and self-isolation of persons due to the novel Coronavirus (COVID-19) pandemic should be considered within the context of the right to personal liberty in all situations when the person:

1. Appears in a specific place of isolation or self-isolation at the specific request of the competent body of the state or an official;
2. Moves to a specific place of isolation or self-isolation or isolates himself or herself in that place against their will;
3. Moves to a specific place of isolation or self-isolation or isolates himself or herself in that place voluntarily, but may not leave that place voluntarily or otherwise without the permission of a state representative and is under the control of the state.

These points are ensured by the fact that the violation of the rules of isolation or self-isolation caused administrative and even criminal liability under the current legislation of the Republic of Armenia.

Taking into consideration the abovementioned, the Human Rights Defender emphasized that along with the provision of the legal regimes for restricting a person's liberty, guarantees of personal liberty should be established, including the rights to appeal the restriction of the right, to receive Legal Aid, to inform the selected person about deprivation of liberty as an assurance to prevent and exclude presumptive or possible arbitrariness by state body or bodies.

At the same time, within the framework of the National Preventive Mechanism, the Human Rights Defender referred to the issues of ensuring the rights of persons in quarantined areas. Summarizing the complaints and alarming-calls addressed to the Defender, special enquiries were submitted to the Ministry of Health of the Republic of Armenia, requesting detailed information on all quarantine places, including the conidtions of the places they are kept and the possibilities of ensuring the rights of individuals. The issues related to the restrictions on the rights of persons conditioned by the novel Coronavirus (COVID-19) pandemic were discussed in more detail in the Annual report on the activities of the Human Rights Defender of the Republic of Armenia in 2020 and on the state of protection of human rights and freedoms.

Due to the pandemic, the use of the ''The Legal Advisor of Persons Deprived of their Liberty'' chat bot published by the Human Rights Defender has become even more up-to-date in the context of the restrictions on social interaction of people. It contains more than 300 questions and answers on the rights of persons deprived of their liberty (Automated system of "Legal Adviser to a Prisoner" in the "Messenger" application of the "Facebook" social network[4]) and is available in the Armenian and

[4] The informative video on using the application is available at https://ombuds.am/en/site/VideoGalleryView/334 webpage, as of 31.03.2021.

English languages. The automated system provides consultations to persons deprived of their liberty, their relatives or to any person on the rights of persons deprived of liberty[5].

It should be noted that the study on the theme ‘’The Analysis of Intrnational Experience: Strategy and Effective Tools for the Control of Proposal Implementation’’ (in English), developed by the international experts of “Association for the Prevention of Torture” is important in the work of the National Preventive Mechanism published by the Human Rights Defender[6].

For the purpose of capacity building of the Human Rights Defender’s Office, including the National Preventive Mechanism, measures are regularly taken to develop and strengthen the professional capacities of the representatives of the Defender’s Office and of the experts of the National Preventive Mechanism.

During 2020, the Human Rights Defender's Office adapted to the conditions of the pandemic by participating distantly (via video call) in various events and professional discussions with state bodies, and civil society representatives. A number of internal discussions were held in the Defender’s Office to develop the professional knowledge and skills of the representatives of the Office.

Along with that, in 2020, the Human Rights Defender's Office organized the two-day workshop entitled "Involuntary Treatment of Juveniles and Persons with Disabilities in Psychiatric Organizations, the Institute of Guardianship, Type and Degree of Disability, Deinstitutionalization and Transition to the Community-based Mental Health Services". During the event, the preconditions for the development of alternative community-based services, the main directions of their development were discussed with the participation of international experts,, as well as a number of issues related to availability of psychiatric services and involuntary treatment, including juvenile and incapacitated persons. In addition to the representatives and experts of the Human Rights Defender's Office, the workshop was also attended by the representatives of the Ministry of Health of the Republic of Armenia and non-governmental organizations working in the field.

[5] The Human Rights Defender’s legal standards have been published, and the ‘’Legal Adviser to the Prisoner" e-chat has been developed within the framework of the European Union's programme ‘’Human Rights Promotion and Protection’’, with the support of the United Nations Development Programme, United Nations Population Fund and of UNICEF.

[6] See: https://ombuds.am/images/files/2e47a238d93b1ebff2de3233f8a0d261.pdf webpage, as of 31.02.2021.

CHAPTER 2. THE INTERNATIONAL INVOLVEMENT OF THE NATIONAL PREVENTIVE MECHANISM AND TORTURE BY THE AZERBAIJANI ARMED FORCES IN THE AD HOC REPOTS OF THE HUMAN RIGHTS DEFENDER

The activities of the Human Rights Defender within the framework of the National Preventive Mechanism implies cooperation and stable communication with the international partners and, primarily, with the UN Subcommittee on Prevention of Torture.

The translations of the *annual* and *ad hoc* reports of the Human Rights Defender, acting as a the National Preventive Mechanism, are sent to the UN Committee against Torture, the Subcommittee on Prevention of Torture, the European Committee of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the European Court of Human Rights, as well as, other international institutions working in the field, diplomatic missions, international non-governmental organizations, etc, within the framework of cooperation with international partners.

Close cooperation is ensured both with international organizations working in the field and partners from other countries throughout the year. The novel Coronavirus (COVID-19) pandemic and martial law also developed international cooperation on these issues.

As mentioned, the Human Rights Defender also emphasizes international cooperation in ensuring human rights, as well as in introducing international standards into municipal law and law enforcement practice for the purpose of exclusion of other forms of torture and ill-treatment.

The role of the case law of the European Convention for the Protection of Human Rights and Fundamental Freedoms and of the European Court of Human Rights is invaluable from this perspective.

Another means of cooperation in the enforcement of European Court judgments is Paragraph 2 of the Rule 9 of the Regulation of the Committee of Ministers of the Council of Europe on controlling the enforcement of friendly regulations and of European Court judgments, according to which *the Committee of Ministers discusses the positions of national institutions on the promotion and protection of human rights related to the execution of the European Court judgements.*

The Human Rights Defender of the Republic of Armenia, in cooperation with the Helsinki Committee of Armenia NGO, presented a special position to the Committee of Ministers of the Council of Europe connected with the execution of the judgments of the European Court of Human Rights on the case of *"Poghosyan v. Armenia"* on the protection of the minimum rights of persons deprived of their liberty.

The presentation of special positions on the execution of the judgments of the European Court of Human Rights on Armenia aims at promoting the more effective introduction of the legal standards of the European Court in the legal system of Armenia.

This joint position presented to the Committee of Ministers addresses a number of principle issues for the execution of the given judgment, including the compliance of domestic regulations governing the rights of persons deprived of their liberty with the standards of the European Court. In particular, it refers to the right of a person to be informed about deprivation of liberty immediately, to be informed of the reasons for deprivation of liberty, to have a lawyer, to undergo a medical examination, including by a doctor of their choice, as well as to the right to contest the legality of deprivation of liberty and to be released by a court, if deprivation of liberty isn't legal.

The Human Rights Defender presented two more special positions to the Committee of Ministers of the European Council: the position on the execution of the ECHR judgement of *''Muradyan v. Armenia''* regarding the issues of the human rights protection in the armed forces and to the right of health care of a person deprived of liberty in case of *''Ashot Harutyunyan v. Armenia''*.

Simultaneously, the Human Rights Defender of the Republic of Armenia involved a third party to the European Court of Human Rights within the framework of the case of *''Hakobyan v. Armenia''*, presenting to the Court the information on the provision of proper and necessary medical assistance related to the specific case. The systemic issues related to the provision of medical assistance in the penitentiary institutions of the Ministry of Justice of the Republic of Armenia, which are connected to the issues raised in this case, have also been presented to the European Court.

The work of the Human Rights Defender with the international community has become even more important in the context of the serious challenges Armenia dealt with in 2020. Thus, on the 27th of September, 2020, a large-scale war unleashed by Azerbaijan grossly violated the rights to life and health of tens of thousands of peaceful civilians. War crimes and crimes against humanity were committed against Armenians, which led to the torture and ill-treatment of Armenian servicemen and civilians.

In this regard, the Human Rights Defender's Office, in cooperation with the Office of the Human Rights Ombudsman of Artsakh carried out fact finding activities, the results of which were summarized in the *ad hoc* reports. In these reports, the images and videos reflecting the atrocities and cruel treatment of of the the Armenian captives (both servicmen and civilians) and the the bodies of the victims by the Azerbaijani armed forces, are collected and presented with concrete proofs, and have been subjected to deep analysis. The attitude of the Azerbaijani armed forces is the result of a systematic policy of Armenophobia in Azerbaijan, carried out at the state level.

In compiling the above-mentioned reports, the Human Rights Defender's Office monitored social networks, especially Azerbaijani sources, as a result of which numerous videos were found, directly proving war crimes and indescribable atrocities against ethnic Armenian servicemen and civilians by the Azerbaijani armed forces.

The videos of these atrocities were filmed by Azerbaijani servicemen and they were spread on social networks mainly by Azerbaijani sources. The videos demonstrate episodes of exceptional cynical torture

and ill-treatment of ethnic Armenian servicemen and civilians, including beheadings of people alive, violence with particular brutality, murders, desecrating the bodies of those killed, etc., which demonstrated religious hatred as well.

The received materials have been studied and evaluated through a special methodology to check the authenticity of the information. Translations were made revealing the intentions of the representatives of the Azerbaijani armed forces, as well as their attitude towards ethnic Armenians, which mostly repeated the Armenophobic statements of Azerbaijani top politicians.

In this regard, the joint AD hoc public report[7] of the Human Rights Defenders of Armenia and Artsakh entitled "Hate Speech in Azerbaijan and Hostility towards Ethnic Armenians as Rooted Causes of Ethnic Torture and Ill-treatment by the Azerbaijani Armed Forces'' includes important analyses.

At the same time, the hotline number of the Human Rights Defender's Office was always available, which regularly received calls from the Armenian captives, servicemen and civilians, as well as alarms by the relatives of missing persons. The persons from the collected videos were identified as a result of the work done.

The representatives of the Human Rights Defender had separate meetings with persons returned from captivity in Azerbaijan. During their private interviews, the latter presented the torture and ill-treatment, during their captivity and deprivation of their liberty, perpetrated by the Azerbaijani armed forces, as well as representatives of other institutions.

The above-mentioned private reports[8] were submitted to a number of international organizations, international non-governmental organizations and the mass media.

Along with that, the Human Rights Defender published an *ad hoc* report stating that the results of the interrogation of Armenian captives in Azerbaijan cannot be a basis for criminal prosecution and cannot be evidence in international, including judicial instances[9].

The mentioned report put a special emphasis on the interrogation of the Armenian captives in Azerbaijan, concluding that the information provided by the latter cannot serve as a basis for criminal prosecution

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[7] See: https://www.ombuds.am/images/files/2032f021fe81176414a649d588ad0e86.pdf?fbclid=IwAR243NkT_yqu8z5CwMlUTtX0ijQJAKY1WCpg47op8mZjnB2sy1_qn82sXfM webpage, as of 31.03.2021.

[8] They were not published because they contained open brutal scenes. The reports, along with all the necessary videos, were sent to international organizations, as well as to the Ministry of Foreign Affairs of the Republic of Armenia, to the Office of the Representative of the Republic of Armenia in the European Court of Human Rights, etc.

[9] See: https://www.ombuds.am/images/files/1138b156720bec6ae0fd88dc709eb62c.pdf?fbclid=IwAR1j_qcspmen7yve0MjcItk_Ya5ktDceh8RA2JghAuRDsHuj-_jpxQe1PH8 webpage, as of 31.03.2021.

against them, nor can it have any probative value in international organizations. In particular, the *ad hoc* report presents the atrocities of the Azerbaijani armed forces, which were accompanied by torturing the captives of the Armenian side, forcing them to take actions, humiliating them, and so on.

CHAPTER 3. PSYCHIATRIC ORGANIZATIONS

Person's mental health is an integral part of their life, health and well-being. It is the basis of the ability of both the individual and society as a whole to think, to communicate with each other, to interact, to lead a normal life. Therefore, the promotion of mental health, its protection and rehabilitation should be in the focus of public authorities.

Persons with mental health problems are vulnerable taking into account the public perception of them and social stigma. They are vulnerable in terms of exercising and protecting their rights, often being left out of public relations, of various spheres of life, as well as of making decisions about themselves.

Human Rights Defender's observations over the years show that mental health care in Armenia continues to focus on long-term hospital treatment. As a result, a large number of patients are kept in psychiatric organizations, who are often deprived of the opportunity to raise their issues on their own due to their health problems. Taking this into account, monitoring the state of ensuring the rights of persons with mental health problems is one of the main directions of the Human Rights Defender's activities as the National Preventive Mechanism.

The Human Rights Defender, summarizing the monitoring carried out by the National Preventive Mechanism in psychiatric organizations, published the AD hoc public report "On Ensuring the Rights of Persons with Mental Health Problems in Psychiatric Organizations" on the 21st of March, 2018, which was published in three languages: Armenian, English and Russian.[10] After the publication of the *ad hoc* public report, the activities implemented in the field of psychiatry, the resolved and unresolved issues have been reflected in detail in the Annual reports on the activities of the Human Rights Defender as the National Preventive Mechanism in 2018 and 2019[11].

In 2019, the Human Rights Defender's AD hoc public report[12] ''On Physical and Psychological Security, Personal Liberty and other Rights of Children and Incapacitated Adults as Patients'' was published, summarizing in detail, the legislative issue of not taking into account the opinion of juveniles and incapacitated adults on the issue of medical interventions and the constitutional guarantees of the mentioned persons.

[10] See: the trilingual version of the report at https://ombuds.am/images/files/1a342c6fb902f57c52e8495d183e3095.pdf webpage, as of 31.03.2021.

[11] See: https://ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf and https://www.ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpages, as of 31.03.2021.

[12] See: https://ombuds.am/images/files/f5dcd3eb211993d573b3aab9bc85ffd9.pdf webpage, as of 31.03.2021.

Moreover, in connection with this issue, the Human Rights Defender applied to the Constitutional Court in 2019 and Decree 1504[13] of the Constitutional Court of 30 January 2020 declared unconstitutional the legislative regulations of not taking into account the opinion of children and incapacitated adults on the issues of their treatment based on the Ombudsman's application [14]. Some legislative amendments have been made in this regard, but they do not fully address the issue raised by the Constitutional Court.

During the monitoring activities carried out in psychiatric organizations in 2020, both the previously recorded problems and the steps taken to eliminate them were examined, as well as new problems were identified. Particular attention was paid to the preventive activities carried out in psychiatric organizations due to the novel Coronavirus (COVID-19) pandemic. Letters were addressed to the Ministry of Health of the Republic of Armenia, regional administrations of Syunik, Shirak, Lori and Ararat Provinces, regarding the steps taken in connection with the novel Coronavirus (COVID-19) pandemic in the psychiatric organizations operating under their jurisdiction[15]. Monitoring visits were carried out[16].

Complaints and alarming calls addressed to the Human Rights Defender by persons with mental health problems were examined and summarized with a special methodology.

The visits were made by the specialists from the Department for the Prevention of Torture and Ill-Treatment of the Human Rights Defender's Office and independent experts from the National Preventive Mechanism (lawyers, a psychologist, a sociologist, doctors, including a psychiatrist).

The visits to psychiatric organizations were planned taking into account the current positive cases of the novel Coronavirus (COVID-19) in the organization, the presence of persons at risk groups, and other issues. Each time, the volume of neccesary individual protective measures was determined according to them.

A special methodology was used during the visits to the psychiatric organizations according to the guideline of monitoring activities in psychiatric organizations published by the Human Rights Defender in 2018 and developed with the participation of international experts and representatives of other

[13] See the Decree: http://www.concourt.am/armenian/decisions/common/2020/pdf/sdv-1504.pdf webpage, as of 31.03.2021.

[14] See the Decree: http://www.concourt.am/armenian/decisions/common/2020/pdf/sdv-1504.pdf webpage, as of 31.03.2021.

[15] In order to ensure accessibility in the text of this report, the names of psychiatric organizations are used without reference to departmental subordination and organizational-legal form.

[16] In 2020, the visits were made to the following organizations: "National Center for Mental Health Care" CJSC of the Ministry of Health of the Republic of Armenia, "Health Center of Armash after Academician A. Hayriyan" CJSC of the regional administration of Ararat Province of the Republic of Armenia.les

countries[17]. Along with that, the representatives of the National Preventive Mechanism were guided by a new, internal monitoring guideline on issues related to the novel Coronavirus (COVID-19) pandemic in places of deprivation of liberty. The visits were carried out according to precise principles and conditions of detention of persons with mental health problems, the state of ensuring their rights, the level of preventive activities against the spread of the novel Coronavirus (COVID-19) and other key issues were thoroughly examined.

At the same time, the visits to psychiatric organizations were carried out in strict compliance with the rules for the prevention of the novel Coronavirus (COVID-19) pandemic. The private interviews were conducted at a social distance, if possible in open spaces.

It should be noted that the staff of psychiatric organizations have willingly and actively cooperated with the representatives of the Human Rights Defender while exercising their mandate. This also refers to collaborative work at non-working hours and days. Cooperation by this principle has given an opportunity to provide a comprehensive approach, including the observations of employees of psychiatric organizations on the complications and problems in their work. Effective work has been done with the managerial staff of the National Center for Mental Health Care and other psychiatric organizations, which has been demonstrated through important professional discussions.

The representatives of the Human Rights Defender checked the information received as a result of the private interviews with the patients by a special method, including clarification of the same issue in the private interviews with other patients. The documents on the persons, including medical ones, were examined in detail. Discussions were also held with the employees of psychiatric organizations and the issues raised by the latter were recorded.

It should be noted that as a result of the monitoring activities conducted in the National Center for Mental Health Care in 2020, a case of force-feeding of a detainee was recorded, in connection with which detailed studies were conducted. Then, the Human Rights Defender started discussing the issue on their own initiative about this case, as a result of which a decision was made in 2020 on the existence of a violation of human rights and freedoms. At the same time, the individual discussion of this issue revealed systemic problems related to hunger strikes and force-feeding in psychiatric organizations, which are presented in the subchapter "Management of the cases of food refusal in psychiatric organizations" of this chapter.

Following the publication of the Human Rights Defender's AD hoc public report ‘’On Ensuring the Rights of Persons with Mental Health Problems in Psychiatric Organizations’’, the Deputy Minister of

[17] See: https://ombuds.am/images/files/6d25a0333798d184a91cbe0242c4c34d.pdf webpage, as of 31.03.2021.

Health issued an order on the 9th of August, 2018, approving the schedule of measures aimed at eliminating the problems identified in the AD Hoc Public Report. In order to receive information on the implementation of the measures envisaged by the mentioned schedule, the Human Rights Defender regularly addressed letters to the Ministry of Health.

It should be noted that on the 18th of June, 2020, the National Assembly adopted the draft law "On Making Amendments to the RA Law "On Psychiatric Care and Services", which entered into force on the 6th of October , 2020[18].

In this regard, the Human Rights Defender's representatives stated that the medical personnel of psychiatric organizations generally did not know the new regulations of the law, by which they should have been guided since 6 October 2020, as a result of not spreading proper awareness on the new edition of the RA Law ''On Psychiatric Care and Services'' by the Ministry of Health of the Republic of Armenia.

3.1. Problems related to the organization of mental health: the need for deinstitutionalization, unified policy and paid psychiatric services

Within the framework of the National Preventive Mechanism, the Human Rights Defender marked out Armenia as a major problem in the field of psychiatric care such a way of organizing psychiatric care, services or mental health care in Armenia, which is focused on hospital institutionalization and does not ensure the effective use of community-based services. At the same time, there is no common policy in the field on a number of key issues.

It has already being recorded that the system of the psychiatric care in Armenia is mainly focused on the provision of the out-patient and in-patient medical assistance and services by the psychiatric organizations in the Human Rights Defender's 2018 AD hoc public report[19] ''On Ensuring the Rights of Persons with Mental Health Problems in Psychiatric Organizations'' and in the Annual reports on the Human Rights Defender's activities as the National Preventive Mechanism in 2018[20] and 2019[21]. It has been repeatedly emphasized that alternative mental health care and support services are not available at the community level, and patients, mostly receiving long-term s treatment, are secluded from their families, the environment, and society.

[18] According to the said draft law, the title of the law was also changed - RA Law ''On Psychiatric Care and Services''.

[19] See: https://ombuds.am/images/files/ee7ccaca3559ede0879f42a7fea5b40b.pdf webpage, as of 31.03.2021, pages 19-24.

[20] See: https://ombuds.am/images/files/dcc37ac516d1268bb59999f72c76d982.pdf webpage, as of 31.03.2021, pages 25-31.

[21] See: https://ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpage, as of 31.03.2021, pages 27-34.

The Human Rights Defender has always underlined that the care and services of persons with mental health problems should not be limited to institutionalized psychiatric organizations. Suggestions have been made that the population should have access to cross-sectoral, deinstitutionalized alternative services that will allow persons to receive appropriate assistance without being secluded from society. Such services will also reduce the workload of psychiatric organizations, as a result, the rights of persons with mental health problems are not often ensured.

The study of international experience and standards shows that in the field of mental health care it is necessary to move from the model of treatment and care provided in institutionalized psychiatric organizations to the introduction of community-based services. **These are services provided to persons with mental health problems that do not seclude them from society, but aim to achieve their full social integration by helping persons to meet their needs on their own.**

According to the WHO Guidelines for ''Organizing Mental Health Services'', deinstitutionalisation is an important part of the mental health services system. It's more than just releasing persons to the hospital for a long time. Significant changes are needed to services, including alternatives rather than hospital-based services in the community. The provision of services in the community should be guided by the reduction of the number of patients in psychiatric organizations. Deinstitutionalisation can take place with phases when alternative community-based services are already available[22].

The WHO's Mental Health Action Plan 2013-2020 sets out a comprehensive approach to community-based services *that will support persons with mental health problems at different stages of life and, if necessary, facilitate the exercise of human rights in such issues as recruitment, living and educational opportunities, participation in community life and programmes and targeted employment*[23].

The same guidelines set out the following basic principles for community-based services:

- **Availability:** services should be available in the community so that persons with mental health problems are not forced to travel far from their place of residence, which hinders the use of services and ensuring their continuity;
- **Comprehensiveness: i**t is necessary to provide a wide range of services and programmes, taking into account the needs of persons with mental health problems;
- **Coordination and continuity of care:** it is extremely important that services be provided in a systematic way to meet the social and psychological care needs of individuals.
- **Efficiency:** the development of services should be guided by the evaluation of their effectiveness.

[22] See: https://www.who.int/mental_health/policy/services/4_organisation%20services_WEB_07.pdf?ua=1 webpage, as of 31.03.2021, page 6.

[23] See: The WHOs Mental Health Action Plan 2013-2020.

- **The priority of human rights:** Services should respect the autonomy of individuals and encourage persons with mental health problems to make their own decisions with minimal restrictions[24].

It should be borne in mind that the transition from institutionalized psychiatric services to community-based services is a multi-layered process that can lead to failure if applied directly rather than systematically.

Deinstitutionalization is not just unloading of psychiatric organizations. It is a process that involves systematic changes through which services should be provided mainly with a community-based approach.

The WHO Guideline ''On Organizing Mental Health Services'' considers *the availability of health care services in primary care institutions* to be an important component of the deinstitutionalization process. *This requires the training of family doctors, nurses, and other primary care workers to diagnose and treat mental health problems.* According to the guidelines, *general hospitals should be provided with beds, appropriate facilities, and professional staff for the short-term hospitalization of persons with mental health problems*[25].

Therefore, in order to effectively organize the transition from the institutionalized system to the model of community-based services, a clear strategy must be developed, which will include its basic principles and renowned standards taking into account both positive and negative international experience.

It should be noted that after presenting the issue discussed in the abovementioned reports of the Human Rights Defender, by the Order No. 1025-Լ of 27 September 2018[26], the Government of the Republic of Armenia approved ''The 2019 Annual Programme of the Social Inclusion of the Persons with Disabilities'' and according to the 27th part of it, *the activities are being conducted to introduce new models of community-based services in the field of mental health for strengthening of existing resources and potential, development of legal bases related to the care of persons with mental health problems and the provision of social services.*

In 2019, the RA Government Draft Decree "On Approving the 2019 Annual Programme of the Social Inclusion of the Persons with Disabilities and the List of Events'' was submitted to the Human Rights Defender and adopted at the sitting on the 30th of September, 2019. In accordance with paragraph 31 of

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[24] See: https://www.who.int/mental_health/policy/services/4_organisation%20services_WEB_07.pdf?ua=1 webpage, as of 31.03.2021.

[25] See Ibid.: page 42.

[26] RA Government Decree No. 1025-Լ "On Approving the 2019 Annual Programme of Social Inclusion of Persons with Disabilities and the List of Events" of 27 September 2018.

Annex 1 to the abovementioned Decree[27], *in order to ensure the right of persons with disabilities to live independently and to be included in the community, activities for deinstitutionalization of care services for persons with disabilities (including those with mental health problems) will be carried out, in particular, the activities for the introduction of alternative community services, including small community houses, home care services, personal assistant services.*

Annex 2 of the abovementioned Decree defines the list of events of the 2020 annual programme of social inclusion of persons with disabilities and in accordance with the subparagraphs of paragraph 5, *the monthly average of persons with mental problems* during the year is expected:

- *Provision of day care social-rehabilitation services for **130** persons with disabilities;*
- *Provision of social and psychological support to **120** beneficiaries;*
- *Provision of twenty-four-hour care for **30-32** persons with disabilities;*
- *Home care for **50** persons with mental health problems having disabilities, etc.*

The Human Rights Defender emphasized that it is not clear why such a small number of persons are provided with services, while the number of persons, kept in psychiatric organizations, having need of care instead of in-patient psychiatric assistance is high. The latter are mainly in psychiatric organizations due to the absence of alternative community-based services.

According to the information[28] provided by the Ministry of Labor and Social Affairs of the Republic of Armenia, community-based services were provided in 2020 through the ‘’Warm Corner’’ Foundation (‘’Warm Corner’’ Group House) and the ‘’Care’’ NGO (Spitak Care House), which was also recorded in previous years. According to the ministry, 3 small houses have been purchased, which will also serve for these purposes.

According to the information[29] provided by the Ministry of Health of the Republic of Armenia, a branch of the "Psychosocial Regulation Center " was opened in Kapan in 2020.

The Human Rights Defender reaffirms their position that although the Government has endorsed the perspective of transition to deinstitutionalisation and community-based services, some activities have been done in some cases, but separate strategic documents on deinstitutionalisation have not been developed for a long time, which would envisage a common effective policy. In this regard, it should be noted that there is a need for effective interdepartmental cooperation in connection with deinstitutionalization and development of strategic documents (for example,

[27] RA Government Decree No. 1292-Լ "On Approving the 2020 Annual Programme of Social Inclusion of Persons with Disabilities and the List of Events" of 30 September 2019.

[28] Letter of the Ministry of Labor and Social Affairs of the Republic of Armenia of 12 February 2021.

[29] Letter of 10 February 2021 of the Ministry of Health of the Republic of Armenia.

between the Ministries of Health, Labor and Social Affairs, as well as the Ministry of Territorial Administration and Infrastructure).

Renowned international standards indicate that public policy in the field should aim to create a number of pillars of psychiatric care (general hospital and community-based, alternative services) that will be accessible to the entire population. Alternative services include not only provision of care, but also social and psychological rehabilitation of persons with mental health problems, rehabilitation of their ability to work, and support for the full realization of the right to live in a community on equal grounds, as well support for social inclusion.

At the same time, in order to move to a community-based service model, it is necessary to work with public awareness to eliminate the social stigma towards persons with mental health problems, which is extremely important.

Referring to the issues of mental health care, it should be noted that another ongoing problem is the decentralized departmental subordination of psychiatric organizations. Thus, National Center for Mental Health Care, Sevan Mental Health Center, and ''Avan'' Mental Health Center operate under the Ministry of Health. Syunik Regional Psychiatric-Neurological Dispensary, Gyumri Mental Health Center, Lori Regional Psychoneurologic Dispensary, Armash Health Center operates under the jurisdiction of regional administrations and under the jurisdiction of the Ministry of Territorial Administration and Infrastructure. Vardenis Neuropsychological Boarding House and "Dzorak" Care Center for Persons with Mental Disorders operate under the Ministry of Labor and Social Affairs.

In the conditions of decentralized departmental subordination, the interconnected cooperation between the competent bodies is not fully implemented, as a result of which there are omissions in the control over the fulfillment of the requirements of the legal acts adopted by the psychiatric services, as well as by the authorized body. In this regard, it is necessary to address the issues related to the payment of some services in psychiatric organizations.

Issues related to the provision of paid services have already been stated in the AD hoc public report of the Human Rights Defender in 2018 "On Ensuring the Rights of Persons with Mental Health Problems in Psychiatric Organizations" and in the Annual reports on the activities of the Human Rights Defender as the National Preventive Mechanism in 2018 and 2019.

It has been stated that paid services in psychiatric organizations include, for example, out-patient counseling by a psychiatrist performing in-hospital services, daytime in-patient treatment, psychological counseling of hospitalized patients, out-patient psychological counseling, out-patient forensic psychiatric examination of civil cases, individual care (supervision), etc. The provision of hospital rooms with comfortable conditions is also envisaged as a paid service.

Part 1 of Article 11 of the RA Law ‘’On Psychiatric Care and Services’’stipulates that ***the State guarantees the provision of psychiatric care to persons with mental health problems within the framework of the health protection and improvement programmes provided by the Constitution, based on the principles of humanism and human rights protection***.

In connection with paid services in psychiatric organizations, the question arises on what basis the amount of money required for the provision of services was determined in the case when persons with mental health problems mainly belong to the socially vulnerable group of the population.

Studies conducted by the Human Rights Defender as the National Preventive Mechanism show that different psychiatric organizations lack common approaches to the list of paid services and the price list, which is also a result of decentralized subordination. The Human Rights Defender's 2019 report acting as the National Preventive Mechanism states that significantly different fees are set for different services in different psychiatric organizations[30].

According to the information provided by the Ministry of Health of the Republic of Armenia in 2021, common standards for the provision of paid services in psychiatric organizations cannot be set, as each organization provides services of different types and volume not included in the contract with the authorized body.

This again proves that after raising the issues, proper control was not exercised in the sphere, solutions to the problem recorded within the framework of the common policy were not envisaged.

In general, it should be noted that a comprehensive approach to the existing systemic problems in the field of mental health needs to be implemented, strategic documents developed, which will allow to resolve the identified issues within the context of common policy, and exercise proper control over the sector, regardless of departmental subordination.

At the same time, it should be noted that decentralized departmental subordination may not be problematic in itself, if it does not negatively affect the unity of principles and standards of psychiatric services, provision of proper cooperation in social integration of persons with mental health problems, as well as the effectiveness of state control over the sector. Therefore, the work of the various departments in the field of mental health should be coordinated with a common approach and develop effective cooperation between them.

Summarizing the abovementioned, it is necessary to:

[30] In 2019, Syunik Regional Psychiatric Dispensary provided 10 paid services (in the range of 1500-60000 AMD), 13 services were provided in Gyumri Mental Health Center (in the range of 500-65000 AMD), and in "Avan" Mental Health Center there were 21 services (in the range of 1000-150000 AMD). For more details, see https://ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpage, as of 31.03.2021, pages 42-48.

- ✓ ***Develop strategic documents for deinstitutionalization in the field of mental health and transition to alternative services, taking into account international standards and principles in the field and positive experience;***
- ✓ ***Define clear and practical measures for the insertion of the initiated system of alternative services;***
- ✓ ***Expand the range of available alternative services with the aim of supporting the autonomy of persons with mental health problems, their involvement in community life and other social issues;***
- ✓ ***Carry out awareness-raising activities both on existing alternative services and for the elimination of the existing social stigma towards persons with mental health problems.***
- ✓ ***Coordinate the work of the competent bodies in the field of mental health, the interconnected cooperation between them, exercising proper control;***
- ✓ ***Provide access to free psychiatric care and services for persons with mental health problems;***
- ✓ ***Establish lists of paid services under the guarantees provided by law to ensure free access to psychiatric care and services by the policy-making body of the field in order to exclude unreasonable differences of tariffs and types of paid services in psychiatric organizations;***
- ✓ ***Provide complete and accessible information on provision of free psychiatric care and services to persons with mental health problems.***

3.2. Problems with ensuring the rights of incapacitated persons

All are equal before the law and under the law and has the right to the equal protection and equal benefit of the law without discrimination. This is one of the fundamental rights that has been formed throughout history and has been reflected in both international and domestic legal systems. However, along with this basic principle, there are legal statuses that in some cases significantly limit the autonomy and workability of persons with mental health problems[31].

Within the framework of the National Preventive Mechanism, special attention is paid to ensuring the rights of persons with mental health problems recognized as incapacitated, taking into account the more vulnerable status of the latter.

[31] According to the part 1 of the Article 24 of the Civil Code of the Republic of Armenia, the citizen's workability is the citizen's ability to acquire and exercise civil rights through their actions, to create civic responsibilities for themselves and to fulfill them.

The Human Rights Defender addressed, in detail, both practical and legislative issues related to ensuring the rights of persons with mental health problems recognized as incapacitated in their Annual report on the 2019 activities of the National Preventive Mechanism [32].

Special studies conducted within the framework of the National Preventive Mechanism in recent years show that incapacitated persons often lose social connection with their guardians, and some are not even aware of who their guardians are. These issues remain extremely relevant, especially in the face of the novel Coronavirus (COVID-19) pandemic, when persons with mental health problems are even more limited in terms of visits and physical contact with relatives.

Thus, a study of patients' medical histories in the Armash Health Center revealed that as of the day of the visit, 12 persons had been recognized as incapacitated by the court. The mentioned center, however, did not maintain a separate record of patients recognized as incapacitated, and it is not excluded that there were other patients who were recognized as incapacitated and relevant documents about them were not submitted to the psychiatric organization.

The study of the register ‘’Relatives' Visit’’ at the same organization found that between 5 January and 1 March 2020, 31 persons with mental health problems had 44 visits. However, it should be noted that only 4 out of 12 patients recognized as incapacitated had visits in 2020, only once a year, sometimes twice[33].

This is the evidence of the issue repeatedly raised by the Human Rights Defender that incapacitated persons with mental health problems receiving care and treatment in psychiatric organizations and in other social care institutions are largely ignored by guardians. Moreover, guardians receive the opportunity to manage property and income of incapacitated persons; including pensions, and mostly manage them not for the benefit of the ward.

Another issue constantly raised in the *annual* reports of the Human Rights Defender as the National Preventive Mechanism is the issue of choosing a guardian for persons with mental health problems who are recognized as incapacitated. Too often, persons with mental health problems, who are recognized as incapacitated, are ignored when choosing a guardian.

Thus, during the visit, it was recorded that a close relative of 4 patients of the Armash Health Center applied to the court with a motion to declare them incapacitated, informing the psychiatric organization about it. The son of one of the mentioned patients informed the psychiatric organization that the court

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[32] See: https://ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpage, as of 31.03.2021, pages 34-42

[33] Since 1 March 2020, due to the emergency situation and quarantine regime conditioned by the novel Coronavirus (COVID-19) pandemic, there were no visits recorded in the register entitled "Relatives' Visit" of the Armash Health Center. Nevertheless, according to the information provided by the medical personnel, visits were allowed, but in the yard and maintaining a social distance.

recognized the patient as incapacitated on the basis of his motion , but did not resolve the issue of guardianship by the court act. The relative applied with a request to appoint them as the patient's guardian to the guardianship and trusteeship commission under the head of the Arabkir administrative district of Yerevan stated in a letter that "Guardians and trustees of citizens in need of guardianship or trusteeship and staying or settling in the relevant educational, medical, social protection or other similar institutions are those institutions" referring to part 4 of Article 37 of the RA Civil Code. According to the same letter, the Armash Health Center is the patient's guardian.

However, the directorate of the Armash Health Center informed the representatives of the National Preventive Mechanism that they had no information about being the patient'sguardian before the mentioned relative of the patient presented the mentioned letter to them.

In this regard, it should be emphasized that the guardian of a person with mental health problems should be, in no case, the psychiatric organization where the person is kept. In this context, there is an inevitable conflict of interest, as well as a serious concern about the guardian's impartiality.

The abovementioned also contradicts the international best practice and standards developed by international organizations. Thus, the CPT considers it unacceptable when the role of guardian is assumed by the social care institution, its director or a social worker attached to the institution. At the same time, the CPT emphasizes that one of the functions of a guardian is to protect the rights of an incapacitated person, if necessary, in the relations with the hosting institution.

In particular, paragraph 171 of the CPT's 2017 report on Ukraine states that *the Committee wishes to emphasize in this context that one of the functions of a guardian is to protect, if necessary, the rights of an incapacitated person in the relations with the hosting institution. It is obvious that assigning guardianship to the same institution can easily lead to a conflict of interest, limit the guardian's independence, and impartiality. The CPT calls on the Ukrainian authorities to look for alternatives that better guarantee the independence of guardians and impartiality*[34].

In this context, both the regulations of part 4 of Article 37 and part 2 of Article 41 of the RA Civil Code are problematic, *as while placing a ward in the appropriate educational, medical, social protection or other similar institution, the guardianship or trusteeship body relieves the previously appointed guardian or trustee of their duties, if it does not contradict the interests of a guardian.*

Therefore, recognizing those institutions as guardians of persons in need of guardianship or trusteeship and staying or settling in the relevant educational, medical institutions, in the institutions of social protection of the population or in other similar institutions, contradicts the

[34] See: https://rm.coe.int/16808d2c2a webpage, as of 31.03,2021. Moreover, the CPT also expressed the same concern in the paragraph 124 of its 2016 Report on Lithuania. See: https://rm.coe.int/pdf/16807843ca webpage, as of 31.03.2021.

international obligations undertaken by Armenia: the abovementioned legislative regulations should be reviewed immediately.

Referring to the legislative issues related to the provision of psychiatric care to persons recognized as incapacitated, it should be noted that the Human Rights Defender as the National Preventive Mechanism recorded in their reports that there was a problem with the guardian's consent to the admission of incapacitated persons and juveniles while entering psychiatric organizations.

In particular, the legislation considers that only the consent of a legal representative is sufficient for the treatment of incapacitated persons and juveniles in psychiatric organizations regardless of their age, ability to express an opinion, etc[35].

In connection with the issue, the Human Rights Defender applied to the Constitutional Court in 2019, which declared unconstitutional the legislative regulations of not taking into consideration children's and incapacitated adults' opinion in the issues of their treatment by the decision of the Constitutional Court Decree 1504 of 30 January 2020 on the basis of the Defender's application, by setting as a deadline 1 June 2020 of lapsing the provisions recognized unconstitutional[36].

In this regard, certain regulations related to that issue have been enshrined in the RA Law ''On Psychiatric Care and Services''. In particular, according to part 1 of Article 17 of the said law, *psychiatric care is provided to a person with a mental health problem, and in case of the presence of a legal representative, with the written informed consent (application) of the legal representative, except in cases provided by this law.*

Pursuant to the part 2 of the same Article, *a child over 16 years of age or a person recognized as incapacitated in accordance with the law, to receive or refuse psychiatric intervention, give the written consent , except in cases provided by law, if:*

1. *In the opinion of a psychiatrist, a child over 16 years of age or a person recognized as incapacitated in accordance with the law is able to understand the possible consequences of psychiatric intervention or its absence.*
2. *This information shall not harm a child over 16 years of age or a person recognized as incapacitated in accordance with the law.*

[35] See more details: https://ombuds.am/images/files/f5dcd3eb211993d573b3aab9bc85ffd9.pdf webpage, as of 31.03.2021.

[36] See: http://www.concourt.am/armenian/decisions/common/2020/pdf/sdv-1504.pdf webpage, as of 31.03.2021.

3. *It will facilitate the provision of psychiatric care and services.*

In connection with the abovementioned legislative provision, it should be noted that it does not meet the requirement to obtain the informed consent of an incapacitated person or a juvenile, as a patient. Based on the application of the Human Rights Defender, the Constitutional Court has assessed that the involvement of a legal representative is justified only on the principle of subsidy, i.e. if the holder of the right to mental health is not actually able to exercise their basic right to mental immunity. This may include cases when a person apparently has the capacity to exercise this right on their own responsibility, but in doing so they may inevitably cause harm to their own mental health. The Constitutional Court has emphasized that in each particular case it is necessary to ensure a proper professional assessment of a person's mental health and ability to exercise their fundamental right to self-determination.The Constitutional Court has also registered that the principle of subsidy of the involvement of a legal representative should be also applied in the case of juveniles.

It is important to take into account the principle, set out in international documents, that the possibility of a patient to give informed consent (and not just a person with a mental health problem) should be assessed by the healthcare provider, making it a separate subject of discussion for each medical intervention. A necessary precondition for such an agreement is the proper fulfillment of the health care provider's duty to inform, taking into account the patient's personality and the specifics of the particular case. Therefore, from the perspective of assessing the ability to express one's will, it is extremely important its proper provision in practice both medically and legally.

This proves once again that legislative solutions should be given not only in terms of terminology, but also in terms of ensuring their effective application.

This is especially important taking into account the vulnerability of patients recognized as incapacitated. It should be noted that the Human Rights Defender as the National Preventive Mechanism, in their Annual report on the 2019 activities, stated that in some cases there is a clear conflict of interest between persons recognized as incapacitated, and their guardians, who do not act in favor of their wards[37].

Studies conducted by the National Preventive Mechanism and identified systemic and ongoing problems indicate that the institution of guardianship does not serve its intended purpose. Therefore, there is a need to introduce new institutions and mechanisms to support the decision-making of persons with mental health problems.

With this in mind, it is necessary to address the legal structures which are alternatives to the institution of guardianship. There is a widespread agreement among the international community that there is a

[37] See: https://ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpage, as of 31.03.2021, pages 34-42.

need to make changes to the institution of guardianship by moving from a decision-making model by the guardian to a decision-making support model. This is also in line with the requirements of the UN Convention ''On the Rights of Persons with Disabilities' and according to part 4 of Article 12, *participating states ensure that appropriate, effective guarantees will be established by means of the exercise of jurisdiction to prevent abuses of human rights according to international standards. Such guarantees ensure rights, will and preferences of a person to be respected by means of the exercise of jurisdiction,* ***to be refrained from a conflict of interest or an excessive influence,*** *be in line with the individual's personal circumstances and be developed accordingly, to be applied as soon as possible and* ***be regularly monitored by a competent, independent, impartial body or judicial body.***

The UN Committee on the Rights of Persons with Disabilities raised the issue of the discriminatory provisions in the RA Legislation in the final observations of 8 May 2017 about the preliminary report of Armenia, which allow to deprive a person of workability on the basis of psychosocial and mental disability and appoint a guardian. The Committee is also concerned that ***there is no mechanism to replace the decision-making system instead of a person with regimes of supporting decision-making.***

In this regard, the Committee calls on the Armenian authorities to restore the full workability of all persons with disabilities and to introduce regimes of supporting decision-making[38].

Thus, the model of supporting decision-making is a process in which the person is provided with as much support as needed to be able to make their own decisions, to express their will and preferences[39]. The person with mental health problems is the decision-maker, and the supporter, if necessary, clarifies the problems and comments on the person's preferences. Even when a person with a disability requires full support, the supporter should enable the person to make the most of their capacity to do so in the best interests of that person[40].

The abovementioned model of supporting decision-making helps to stabilize the autonomy of the person with mental health problems, to participate independently in public relations, which is extremely important from the perspective of the person's mental health as well as in terms of ensuring rights.

The Human Rights Defender reaffirms their position that, taking into account the international obligations undertaken by the Republic of Armenia, that the institution of guardianship in

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[38] See: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/ARM/CO/1&Lang=En webpage, as of 31.03.2021, paragraphs 19, 20.

[39] See: "Support in Decision-making, Best Practice Guide" at https://www.mwcscot.org.uk/sites/default/files/2019-06/mwc_sdm_draft_gp_guide_10__post_board__jw_final.pdf webpage, as of 31.03.2021, page 4.

[40] See: European Union Agency for Fundamental Rights' study on the theme ''Workability of Persons with Mental Health Problems'' at https://fra.europa.eu/sites/default/files/legal-capacity-intellectual-disabilities-mental-health-problems.pdf webpage, as of 31.03.2021, page 11.

Armenia does not serve its purposes, guardians often ignore the wards, which leads to significant restrictions of opportunities on ensuring their rights. It is necessary to make relevant studies and to fix the alternative mechanisms by legislation replacing the model of complete deprivation of workability of a person, which will be aimed at supporting the independent decision-making of persons with mental health problems, fully ensuring their rights.

Prior to the introduction of these legislative structures, in order to protect the rights of incapacitated persons, it is necessary to:

- ✓ ***Take into account the opinion of a ward while establishing guardianship towards persons with mental health problems who are recognized as incapacitated;***
- ✓ ***Make a subject of discussions the existing disagreements between a guardian and a ward and the issue of conflict of interests when appointing the latter as a guardian by the competent state body;***
- ✓ ***Exercise control over the activities of the guardians for the benefit of the wards by the guardianship and trusteeship body;***
- ✓ ***Regularly monitor the activities of guardians and take steps based on their results as prescribed by law.***

3.3. The use of coercive measures of a medical nature in criminal proceedings

The Human Rights Defender as the National Preventive Mechanism has consistently raised issues related to the use of coercive measures of medical nature, which were documented in the AD hoc public report[41] of the Human Rights Defender ''On Ensuring the Rights of Persons with Mental Health Problems in Psychiatric Organizations'' and in the *annual* reports[42] on the activities of the Human Rights Defender as the National Preventive Mechanism.

Thus, part 1 of Article 457 of the Criminal Procedure Code of the Republic of Armenia prohibits the imposition of precautionary measures on persons who have committed a crime in a state of insanity. In cases, when a person needs psychiatric care and is dangerous for themselves or for the society, security measures provided for in part 2 of Article 457 of the Criminal Procedure Code of the Republic of Armenia may be applied to the latter before the issuance of a judicial act on the use of coercive measures.

In connection with the security measure of placement in a psychiatric hospital, the Human Rights Defender has repeatedly raised the issue that the Criminal Procedure Code of the Republic of Armenia

[41] See: https://ombuds.am/images/files/1a342c6fb902f57c52e8495d183e3095.pdf webpage, as of 31.03.2021, pages 25-30.

[42] See: https://ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf webpage, as of 31.03.2021, pages 31-35.

did not address the issue of medical treatment or care after placement in a psychiatric hospital before the court applied coercive medical measures. As a result of the monitoring activities of the National Preventive Mechanism, there have been numerous cases, when the mentioned security measure was applied, no coercive measures of a medical nature were applied for a long period of time, and in order to prevent the deterioration of a person's mental health, the psychiatric organization started treatment by forcibly providing psychiatric drugs. In the context of this legislative issue, the use of coercive measures of de facto medical nature without a relevant judicial act is extremely problematic.

The Human Rights Defender emphasized that in cases, when the persons, admitted to a psychiatric organization as a result of the use of the discussed security measure, do not submit a consent to the treatment, the trial is delayed for a long time and a very problematic situation arises. It is obvious that placement in a psychiatric hospital cannot be an end in itself, it must pursue either the goal of treating the person or providing care.

In connection with the abovementioned, on the 18th of June, 2020, amendments were made in part 2 of Article 457 of the Criminal Procedure Code of the Republic of Armenia, as a result of which, the security measure of "placement in a psychiatric hospital" was replaced by "placement and treatment in a psychiatric organization", which creates a legal basis for the treatment of patients admitted to a psychiatric organization using a security measure.

Despite the mentioned legislative amendment, some issues related to coercive medical measures stated by the Human Rights Defender remain up-to-date..

In particular, the Criminal Procedure Code of the Republic of Armenia does not set time frame for the use of coercive medical measures. As a result, a person may be kept for a long time in a psychiatric organization before the court decides to apply or change a coercive measure, which is accompanied by a restriction on the latter's right to freedom of movement. During this period, the person can recover and no longer represent a danger to themselves or to society, but continue to be kept in a psychiatric organization receiving conservative treatment (without judicial supervision).

It should be noted that within the framework of the monitoring activities of the National Preventive Mechanism it has been recorded that the absence of community-based services and social issues affect the course of proceedings, leading to the continuous use of coercive measures with regard to persons who have committed crimes in a state of insanity.

During the visit to the National Center for Mental Health Care in 2020, as a result of a study of a medical card of one of the patients, it was recorded that the latter had been admitted to a special department of

in-patient treatment since 2004 based on a court decision about the use of a medical coercive measure. In 2020, the National Center for Mental Health Care submitted a motion to the Court of General Jurisdiction of the city of Yerevan to terminate the medical coercive measure applied to the patient in the general control department and replace it with out-patient coercive treatment. The motion, however, was rejected.

In its arguments, the court used the fact that *"in case of termination of coercive treatment, the person does not even have a place of residence; it is very likely that they will find themselves outside." In other words, a person who has a chronic mental illness, in need of constant care, being outside without a real place of residence or family care, can reasonably be in a much worse condition than being in a hospital under medical supervision."*

The monitoring activities of the National Preventive Mechanism demonstrates that this practice is widespread. This shows that the absence of community-based services also influences on court decisions about the abolition of coercive medical treatment resulting in leaving persons with mental health problems, who do not need in-patient treatment, in psychiatric organizations, which is unacceptable and testifies about the absence of the targeted state policy in this sector and of coordinated work between different state bodies. Problems connected with access to social services should not be an obstacle to the termination of coercive medical measures towards a person by depriving the person of their liberty for a long time. This can lead to a violation of the positive obligations of the State and a number of fundamental rights of the individual, such as the right to freedom, as well as the right to be free from torture and ill-treatment.

Summarizing the abovementioned, it is necessary to:

- ✓ ***Set time frame for the use of coercive medical measures;***
- ✓ ***Envisage in the Criminal Procedure Code of the Republic of Armenia a mechanism of regular judicial review of the security measure for placement in a psychiatric hospital;***
- ✓ ***Show the necessary consistency by the courts in examining the motions of the psychiatric organizations regarding the review of the coercive measures of medical nature;***
- ✓ ***Make a subject of study the case law on the use of coercive measures of medical nature by the bodies responsible for summarizing the case law, in order to bring out the mentioned problems, to ensure uniform use of the law and to exclude procedural violations.***

3.4. Voluntary or involuntary treatment of a person in a psychiatric organization

Psychiatric care and services, in addition to coercive measures of medical nature, may be provided on a voluntary basis, i.e., with the informed consent of a person or involuntary treatment against a person's will.

Legislative and practical issues related to voluntary and involuntary treatment have always been documented in the reports[43] on the activities of the Human Rights Defender as the National Preventive Mechanism. At the same time, the issues raised in the reports along with the proposals were repeatedly submitted to the Ministry of Health of the Republic of Armenia during the circulation of the RA draft law "On Making Amendments to the RA Law ‘’On Psychiatric Care and Services’’ and during numerous practical and professional discussions with representatives of the Ministry.

The draft law has been revised and adopted on the 18th of June, 2020, based on the recommendations of the Human Rights Defender. As a result, the RA Law ‘’On Psychiatric Care and Services’’ provides a number of important provisions of legislative regulations including more clarified versions of the legal mechanisms related to voluntary and involuntary treatment procedures.

Despite the legislative amendments entered into force on the 6th of October, 2020, the Human Rights Defender’s studies show that in practice, issues related to voluntary or involuntary treatment remain relevant.

The monitoring activities of the National Preventive Mechanism state that the number of persons receiving treatment involuntarily according to the RA Civil Procedure is significantly lower in psychiatric organizations. Thus, as of the visit in the 4th department of the National Center for Mental Health Care, 57 patients were kept, and 13 of whom received medical coercive treatment, a security measure was applied to 1 patient, and 2 patients were involuntarily treated. It turns out that 41 patients out of 57 in the 4th department were kept with the consent of themselves or their legal representatives.

5 patients out of 59 kept in the 9th department of the same organization, were subjected to coercive medical treatment, and 2 underwent involuntary treatment. Subsequently, the other 52 patients in the 9th department received treatment on a voluntary basis.

However, in the abovementioned departments of the National Center for Mental Health Care, many persons with mental health problems have expressed their desire to the Human Rights Defender’s representatives of leaving the psychiatric organization. The entrance doors of the mentioned departments

[43] See: the AD hoc public report of the Human Rights Defender on "Ensuring the Rights of Persons with Mental Health Problems in Psychiatric Organizations" at https://ombuds.am/images/files/1a342c6fb902f57c52e8495d183e3095.pdf webpage, as of 31.03.2021, pages 30-35; See also the Annual report on the 2019 activities of the Human Rights Defender as the National Preventive Mechanism at https://ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpage, as of 31.03.2021, pages 54-59.

were closed and opened by the staff. At the same time, patients can leave the department only at the scheduled hours for a walk, which is accompanied by the staff.

This indicates that the consent for in-patient psychiatric treatment of a person is of formal nature and, in fact, by being admitted to a psychiatric organization, persons are deprived of their liberty.

At the same time, the Human Rights Defender has consistently raised this issue pointing out that it is the result of the absence of proper awareness of the administrative and medical personnel of psychiatric organizations about the legal procedures for voluntary and involuntary treatment, which often results in non-compliance with legal requirements. **At the same time, the provision of the informed consent of the patient for psychiatric care and services is extremely important.**

In this regard, the CPT emphasized that *persons receiving voluntary treatment in psychiatric organizations should be provided with complete, clear and accurate information, including on their right of giving or not giving a consent on hospitalization and withdrawing their consent in the future, as well as, to leave the institution at will*[44].

In another case, the Human Rights Defender's representatives recorded that simultaneous motions had been submitted to the court to initiate involuntary treatment towards a number of patients during a monitoring visit to the Armash Health Center. At the same time, in all the studied cases, the mentioned patients agreed to receive in-patient treatment and care by signing or marking the relevant form upon admission to the given psychiatric organization. A study of their medical histories has showed that there were no records about refusing treatment by persons with mental health problems.

Thus, since February 2020, the directorate of the Armash Health Center has submitted a motion to the court for 19 persons, in two groups, to initiate involuntary treatment, and there were no court decisions on 7 of them at the time of the visit.

Representatives of the National Preventive Mechanism have examined all relevant documents and recorded that in the mentioned cases there were no records in the medical histories regarding implementation of medical commission examination on the day of the "Medical Commission Conclusion" or the period before or after it. In some cases, the results of the commission's conclusion were added to the descriptions of the medical history with an additional page, while the number of pages of the medical history had not been over yet.

There were no records in the medical histories of persons with mental health problems refusing to be treated or hospitalized. The medical examinations of the abovementioned persons and the relevant

[44] See: https://rm.coe.int/16806bf46f webpage, as of 31.03.2021, paragraph 133.

records continued to be performed at the accepted "format"; once a month, and **did not reflect a patients reasons to start involuntary treatment.**

Moreover, though the "Medical Commission Conclusion" states that a person with mental health problems *"poses a risk in the out-patient setting" or "poses a* ***serious threat*** *to their environment due to their mental state",* however, there are no records in medical history confirming the abovementioned statement. The records preceding and following the motions in medical histories have been described without negative dynamics of a patient's mental state, mostly stable, sometimes with positive dynamics.

The studied motions submitted to the court to initiate involuntary treatment of patients were of a typical character, the main formalities were repeated, except for the patients' first and last names and diagnoses. In all the motions submitted to the court it was recorded about patientsc that *"... there is no criticism of their illness, as a result of which they refuse in-patient treatment but patient's mental state can be worsened without tretament", "they have no criticism of their illness, need involuntary in-patient treatment and care", "please accept this application as proceeding and subject Name Last Name Father's Name to involuntary hospitalization and treatment in a psychiatric hospital, as their mental state poses a serious threat to them and their environment ".*

As a rule, neither the motions nor the medical histories of persons with mental health problems contained a record of the patient refusal of hospitalization or treatment. For example, according to the record in the medical history, the patient was admitted to the Armash Health Center for voluntary treatment on the 26th of May, 2020, while on the 11th of December of the same year, the directorate of the Center submitted a motion for involuntary treatment of the patient, in case, when the patient's medical history records regularly state that the patient is *"mostly mentally calm", "consciousness is clear", "contact is available", "answers questions in essence", "understands and maintains in-hospital order and rules."*

It should be noted that medical histories of the abovementioned cases do not reflect any legal basis for initiating involuntary treatment. These circumstances raise serious concerns about artificiality and groundlessness of the involuntary treatment process. Instead of properly securing informed consent to hospitalization and treatment, monolithic motions submitted to the court on the basis of such typical "Medical Commission Conclusions" without proper justification of persons being risky and in need of in-patient treatment are highly problematic. **Of particular concern is the fact that a group of patients who have been treated "voluntarily" in unexplained circumstances over the years, at the same time, have become *"extremely dangerous to their surroundings"*, which, however, is not being substantiated by the records of doctors treating them.**

Of concern is the fact that such standard motions didn't arouse suspicion in judges who made judicial acts to initiate involuntary treatment. On the contrary, the judicial act is usually based on the standard formulations presented in the motions of the psychiatric organizationu, without sufficient arguments to substantiate them. The mentioned judicial acts differed mainly in the patients' names and surnames,

diagnoses of the illnessed, which indicates that the judicial acts on the initiation of involuntary treatment are of a typical character.

Taking into account the abovementioned, it should be emphasized that the need for care of persons with mental health problems and the lack or absence of appropriate social services to provide it should not be a basis for initiating involuntary treatment. Ensuring community-based services and their diversity and accessibility for persons with mental health problems should be guaranteed by the State. The absence of such services should not be a justification for the State to continuously keep persons with mental health problems in psychiatric organizations against their will, or to deprive persons of their liberty through the use of involuntary treatment tools, as they have no way out.

The Human Rights Defender, in their Annual report on the 2019 activities of the National Preventive Mechanism, analyzed the domestic legislation and stated that **in case of refusal or termination of treatment (even if the person has previously agreed to hospitalization and (or) treatment) the person should leave the psychiatric hospital immediately, unless an appropriate procedure is initiated in case of involuntary treatment grounds.**

Article 24 of the RA Law ''On Psychiatric Care and Services'' provides that the following must be confirmed for involuntary treatment:

A. ***There is no consent by a person with mental health problems or, in case of presence of the legal representative, the latter's consent for psychiatric care and services.***
B. ***A person with mental health problems poses a risk (including for life and health of themselves and of others).***
C. ***Treatment of a person without hospitalization cannot be effectively organized, and delay in psychiatric care may pose a risk to a person's life, health or to the environment.***
D. ***The justification of involuntary hospitalization was confirmed by the conclusion of the professional psychiatric commission.***
E. ***The executive body of the psychiatric organization applies to the court to subject the person to involuntary psychiatric in-patient treatment in the manner as prescribed by the Civil Procedure Code of the Republic of Armenia.***
F. ***The application of the executive body of the psychiatric organization was upheld by the court decision.***

In connection with the involuntary treatment procedures, it is necessary to address the issues that have not been resolved even with the legislative amendments made in 2020. Thus, the time frame of the court proceedings for involuntary treatment remain open. According to part 1 of Article 269 of the RA Civil Procedure Code, *the case of involuntarily hospitalizing a citizen in a psychiatric organization is resolved by the court of first instance within* ***one day*** *and the court session for the examination of the application*

*is appointed within **five days** from the day of accepting the application.* However, the Code does not stipulate any time limit for granting or denying an application to a psychiatric organization, as a result of which the trial may be delayed for an indefinite period, leading to an unnecessary restriction for an indefinite period on a person's right to freedom of movement.

At the same time, the Human Rights Defender received complaints from persons with mental health problems that they had been hospitalized in a psychiatric organization, had not submitted a consent for treatment, as a result of which, the organization initiated involuntary treatment procedure, but the case of involuntary treatment hasn't been processed by a court for several days due to non-working days, New Year holidays.

At the same time, it should be noted that even part 4 of Article 24 of the RA Law ''On Psychiatric Care and Services'' stipulates that *involuntary treatment can last no more than six months,* which can be fixed by considering the need to establish control over the treatment procedure, according to part 5 of the same Article, *before the expiration of the six-month period, the executive body of the psychiatric organization applies to the court with the demand to abolish the court decision on involuntary hospitalization of the person in a psychiatric organization in case of elimination of the grounds for involuntary treatment of a person with mental health problems prescribed by law.*

In connection with this provision, persons with mental health problems, as well as representatives of the staff of psychiatric organizations have expressed their dissatisfaction to the Human Rights Defender's representatives that the psychiatric organizations are appealing to the court to abolish the court decisions on the involuntary hospitalization of patients, but the issue is being discussed for an indefinite period, which may take a long period of time. As a result, patients, who receive involuntary treatment but are subjected to be discharged, continue to be kept in psychiatric organizations though they don't need in-patient psychiatric care anymore. This practice is extremely problematic, as it is directly related to the rights and freedoms of the individual.

Therefore, it is necessary to enshrine in the RA Civil Code the time frame of discussions of an application to abolish a court decision on subjecting the citizen to involuntary hospitalization in a psychiatric organization.

Summarizing the abovementioned, it is necessary to:

- ✓ ***Take steps to provide the right of giving or not giving a consent to hospitalization and treatment in a psychiatric organization, to review the consent later, to refuse treatment, as well as the opportunity given to a person admitted to the psychiatric organization to leave the organization and to provide accurate information about other rights;***
- ✓ ***Obtain informed consent for the hospitalization and treatment of persons with mental health problems, moreover, based on the available explanations, the person should express their position on each of these issues;***

- ✓ ***Promote awareness-raising activities on the legal basis and procedures for voluntary and involuntary treatment for the medical personnel of psychiatric organizations in order to exclude cases of violations of the rights of persons with mental health problems;***
- ✓ ***Exclude the initiation of the procedure of involuntary treatment of persons with mental health problems without appropriate legal grounds;***
- ✓ ***Exclude the submission of typical and unsubstantiated applications on involuntary treatment of patients in groups ensuring, in each case, an individual and thorough discussion of the grounds for involuntary treatment;***
- ✓ ***Immediately consider the applications of the psychiatric organization to abolish the court decision on involuntary hospitalization of a patient;***
- ✓ ***Enshrine the time frame of the court proceedings to abolish the court decision on involuntary treatment, as well as involuntary hospitalization in the RA Civil Procedure Code.***

3.5. Discriminative approach and ill treatment

Persons with mental health problems are sometimes mistreated during their stay in psychiatric organizations while receiving in-patient treatment, and medical and service staff demonstrate discriminative approach towards them.

Within the framework of the National Preventive Mechanism, the Human Rights Defender constantly focuses on the possible manifestations of ill-treatment and discriminative approach towards persons with mental health problems.

As a result of monitoring activities it was recorded that in some cases, when persons with mental health problems demonstrate an inappropriate behaviour, such as arguing, they are moved to a seclusion room as a form of punishment, which is a very worrisome practice.

Thus, during a monitoring visit to the National Center for Mental Health Care, it was recorded that a secluded person with mental health problems was kept in a restraint room for seven days and slept in a bed intended for physical restraint. The secluded person had no linen, and the bedding was dirty. According to the medical personnel, the reason for secluding the person with mental health problems was the attack on another patient in the department.

It is worrying that both the patient and other persons with mental health problems in the department and members of the medical personnel interpreted the seclusion of the person and the restrictions imposed on them as a sanction.

The study of the representatives of the National Preventive Mechanism revealed that a person with mental health problems was banned from making phone calls, smoking, drinking coffee, drinking water in the evening and using the toilet at night as a punishment. The latter ate in the restraint room, and did not use the canteen of the department. It should be noted that at the time of the visit, the secluded person was allowed to eat in the canteen of the department, and bedding was provided only after the intervention of the Human Rights Defender's representative.

It should be noted that there was no record of the patient's seclusion in any of the psychiatric organization's registers or in the latter's medical history.

In this connection, it should be emphasized that the unjustified seclusion of a person in a room intended for the use of restraint in order to punish them, without providing sufficient living conditions, as well as without justification, the restriction of the latter's rights allow to record that in this case the patient was subjected to ill-treatment.

In connection with the abovementioned, it should be noted that the use of sanctions in a psychiatric organization is strictly inadmissible. These actions can also be a psychological pressure on other patients in the department.

In this regard, in paragraph 153 of the 2017 report on Latvia, the CPT noted that from time to time it may be necessary to separate irritated (or) aggressive individuals from other patients to prevent self-injury or harm to others. ***However, patients shouldn't be secluded as a (informal) punishment in any case***[45].

During the monitoring visits made by the National Preventive Mechanism to psychiatric organizations, manifestations of discriminative approach were also recorded.

Thus, during their visit to the National Center for Mental Health Care, the representatives of the National Preventive Mechanism recorded that discriminative approach of keeping persons with mental health problems in different hospital rooms in the 7th department of the mentioned medical center is still a matter of concern due to the relatively good conditions of some departments. Thus, the conditions of the 1st and 2nd hospital rooms of the mentioned department are the worst, and persons with severe mental health problems are kept there.

During the monitoring visit, it was noted that there was a hospital room in the 7th department of the National Center for Mental Health Care, which, unlike the others, was not locked and persons with mental health problems kept in that hospital room were able to walk in the corridor and use the toilet freely.

[45] See :https://rm.coe.int/pdf/168072ce4f webpage, as of 31.03.2021.

Moreover, some of the patients in the mentioned psychiatric organization informed the Human Rights Defender's representatives about the cases of showing discriminative approach by the staff.

In particular, during a private interview with the Human Rights Defender's representatives, one of the patients mentioned that they lived alone in the room, they felt alone, their room was mostly closed, and they had no contact with other patients.

During the visit, as a result of another observation in the 6th department, it was recorded that one of the 2 persons examined there could leave the room without a protective mask, and walk in the corridor, where there is a table, chair, TV and other property, talk, interact with the staff of the department but the other patient (wearing a mask) was not allowed to enter the corridor, even if the door was not locked.

Moreover, three separated rooms for the examinees of the 6th department of the National Center for Mental Health Care differed significantly from each other in terms of living conditions: renovation, furniture, etc. Thus, the first room for women and juveniles was relatively renovated, the beds and sideboards were better, and the floor was covered with linoleum. At the same time, the third room, located directly in front of the toilet was in a very poor condition, where most of the persons accused of the murder were kept.

During their visit, the representatives of the National Preventive Mechanism also recorded cases of use of unacceptable terminology by the staff of the National Center for Mental Health Care. For example, some members of the staff described the hospital room as a "cell".

Regarding the issue, it should be noted that according to paragraph 2 of part 1 of Article 14 of the RA Law ‘’On Medical Assistance and Services to the Population’’, everyone (patient) has the right to be treated with care and with non-discriminative and respectful attitude while receiving care,

Taking into account the abovementioned, it is necessary to:

- ✓ ***Exclude the discriminative approach and ill-treatment to persons with mental health problems;***
- ✓ ***Conduct targeted staff training on proper treatment with patients.***

3.6. The state of organization of preventive measures due to novel Coronavirus (COVID-19) pandemic

In 2020, the services providing medical assistance to the population have been overloaded with work under the conditions due to the novel Coronavirus (COVID-19) pandemic. Psychiatric organizations have not been left out of the activities aimed at overcoming the novel Coronavirus (COVID-19) pandemic and its prevention.

According to the official clarifications of the Ministry of Health of the Republic of Armenia in 2020, in order to prevent the spread of the novel Coronavirus (COVID-19), measures have been taken in the organizations providing medical, including psychiatric care and services, which have been regulated by different legal acts in different periods of 2020. For example, during the declared state of emergency, these issues were regulated by Commandant's decisions[46]. During the quarantine period established in Armenia from 11 September 2020, the mentioned issues were regulated by the RA Government Decree No. 1514-Ն "On Setting Quarantine Regime due to the novel Coronavirus (COVID-19) pandemic" of 11 September 2020, as well as by the orders[47] of the Minister of Health of the Republic of Armenia with methodological guidelines and sanitary rules approved by them.
According to the information provided by the Ministry of Health, in addition to the abovementioned legal acts, some psychiatric organizations have developed their own pandemic control programmes.

Thus, the ''Avan'' Mental Health Center has developed a pandemic control programme, *which includes safety measures for patient admission, seclusion, sorting and for the medical personnel, as well as for the environment.* A similar programme has been developed at the Syunik Regional Psychiatric-Neurological Dispensary.

The Gyumri Mental Health Center has developed a programme to prevent infections, which includes an emergency plan to prevent the novel Coronavirus (COVID-19) pandemic and fight against emergency situations.

According to the written information provided by the Ministry of Health, in 2020, relevant examinations were carried out in psychiatric organizations for the detection of the novel Coronavirus (COVID-19) pandemic in relation to individual complaints, in particular, PCR (polymerase chain reaction) and tests for antibodies. The study of the presented information, however, indicates that the mentioned researches were carried out in different organizations with significantly different numbers and frequency. Thus, in the Gyumri Mental Health Center, 11 PCR testing were made in connection with individual complaints

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[46] Decision No. 63 "On Temporary Restrictions Applied to the Whole Territory of the Republic of Armenia" of the Commandant made on the 3rd of May, 2020. Decree No. 74 "On Making Amendments to the Decision No. 63 of the Commandant of 3 May 2020" made on the 14th of May, 2020.

[47] Order No. 336-Ա, ''On Epidemiological Observation of Cases of the Novel Coronavirus (COVID-19) in the Republic of Armenia, Epidemiological Characterization of Cases, Laboratory Examination, Sampling, Home Care of Patients with "Mild" Symptoms, Medical Control of Contacts, Clinical Management, Prevention of the Spread of Nosocomial Infection Methodological Guideline and Approval of the Collection of (Temporary) Means, Restraint / Management of the Novel Coronavirus (COVID-19) Pandemic'' of the Minister of Health of the Republic of Armenia 31 January 2020. Order No. 977-Ա "On Approving Methodological Guidelines and Algorithm of Disinfection Measure of Vehicles Transporting the Passengers of Pre-school and Public Educational Institutions, of High Education Institutions, Public Catering Facilities, and Methodological Guideline of Rational Usage of the Individual Preventive Measures for the Prevention of the Novel Coronavirus (COVID-19) Pandemic in the Republic of Armenia" of 16 March 2020 , as well as the Order No. 17-Ն ''On Approving the Sanitary Rules SR No. 3.1.2-001-20 Used for the Prevention of the Novel Coronavirus (COVID-19) Pandemic in the Republic of Armenia'' of 4 August 2020.

of patients and staff, in the Syunik Regional Psychiatric-Neurological DIspensary, 4 patients took PCR tests, and in the Armash Health Center no PCR testing was performed, but testing for antibodies were performed and 145 persons have been examined.

The picture is different, for example, in the ‘’Avan’’ Mental Health Center, where in 2020, a different number of patients were sampled 11 times for PCR tests to detect the novel Coronavirus (COVID-19) pandemic. A total of 375 medical examinations were performed among both patients (234) and the employees (141). 74 positive results were received, 37 of which were patients results.

The National Center for Mental Health Care has twice conducted a mass PCR examination. According to an examination conducted on the 28th of May, 2020, the total number of persons infected with the novel Coronavirus (COVID-19) was 72, of which 42 were employees, 7 were police officers, and 23 were patients. On the 6th of August, 2020, the number of persons infected with the novel Coronavirus (COVID-19) and revealed after a double-mass PCR examination was 36, of which 6 were employees and 30 were patients. On the 18th of December, 2020, 3 cases with the novel Coronavirus (COVID-19) were diagnosed in connection with individual complaints: 2 employees, 1 patient.

A number of issues related to the prevention of the novel Coronavirus (COVID-19) pandemic have been identified in psychiatric organizations as a result of the monitoring activities of the Human Rights Defender as the National Preventive Mechanism. They are largely related to the existence of seclusion rooms for the prevention of infection, their conditions, the organization of hygienic, anti-pandemic measures, and the observance of those procedures.

Thus, according to the official explanations of the Ministry of Health, seclusion rooms are provided in psychiatric organizations for suspected cases of the novel Coronavirus (COVID-19) disease. The exception is the Lori Regional Neuropsychiatric Dispensary, the building conditions of which aren’t satisfactory.

During the monitoring visit of the National Preventive Mechanism to the National Center for Mental Health Care, it was recorded that there were seclusion rooms attached to all departments to seclude patients as needed. The first floor of the 6th department of the National Center for Mental Health Care after cosmetic renovation was intended as a quarantine department for inpatients. However, during the monitoring visit, it was recorded that the department was not used, was not properly furnished, one of the departments was in poor condition, and the lighting and sanitary and hygienic conditions weren’t satisfactory.

There were five beds in two rooms of the mentioned department; four beds were in one room and one beds was in the another room. There was a plywood instead of the windows in the general hospital room with four beds. The toilet and the bathroom of the department were half-destroyed.

Studies conducted during the monitoring visit prove that newly admitted patients to the National Center for Mental Health Care were not secluded and were immediately placed in the departments. As of the visit, there were 25 patients infected with the novel Coronavirus (COVID-19) pandemic in different departments of the National Center for Mental Health Care. It should be noted that, on the eve of the visit to the same psychiatric organization, the high number of people infected with the novel Coronavirus (COVID-19) din the 1st department (acute conditions) was due to the violation of the rules of the prevention of the spread of the infection to newly admitted patients, seclusion rules, in particular and this is a matter of great concern.

According to the information provided during the monitoring visit to the Armash Health Center, the admission of new patients was based only on the negative result of the PCR test for releaviling novel Coronavirus (COVID-19). At the same time, the admission of a new patient was refused at the time of the visit, as more than 3 days passed since the negative result of the PCR test.

The mentioned approach of the Armash Health Center is problematic, as persons with mental health problems who need in-patient psychiatric care or services may not be admitted to the given psychiatric organization due to the absence of PCR test results in the corresponding period.

While it is acceptable that the access to the Armash Health Center should be restricted as much as possible to prevent the spread of the novel Coronavirus (COVID-19), **this should not be a reasonable justification for refusing to provide appropriate medical assistance to persons in need of psychiatric care and services by the organization providing psychiatric care and services.**

In this regard, it is necessary to strictly observe the sanitary-hygienic-anti-pandemic rules for the prevention of the spread of the novel Coronavirus (COVID-19), to accommodate the newly admitted persons in a separate hospital room for a certain period of time, and if necessary, to organize PCR examination in case of relevant symptoms. **Moreover, Annexes 8-15 to the Order No. 17-Լ of the RA Minister of Health of 4 August 2020 do not provide for a mandatory requirement to submit PCR test results for admission to a psychiatric hospital for in-patient treatment**.

Improper organization of seclusion measures for the admission of persons with mental health problems in psychiatric organizations and prevention of the novel Coronavirus (COVID-19) is inadmissible and contradicts the legislation of the Republic of Armenia.

As for the implementation of the preventive measures of the novel Coronavirus (COVID-19) at the entrance to and exit from psychiatric organizations, during the entry of citizens it is obligatory to measure their temperature, perform disinfection of hands with disinfectants containing alcohol and the citizens who do not have medical masks are provided with them by psychiatric organizations according to the sanitary rules approved by Annex 8 of the Order No. 17-Ն of the Minister of Health of 4 August 2020,.

During the monitoring visits in 2020, it was recorded that the temperature of the staff of the Armash Health Center is measured twice a day through a non-contact (electronic) thermometer, and the staff of the National Center for Mental Health Care do this every morning. As for temperature measurement of other persons entering the National Center for Mental Health Care and recording of their results, it should be noted that it was not done properly.

Thus, during the visit, the temperature of the representatives of the Human Rights Defender was not measured by the employee of the security department in the National Center for Mental Health Care. Moreover, the study of the register at the checkpoint revealed that as of 13:00, thermometric data of only three persons, who had entered the psychiatric organization, was recorded, but the monitoring revealed that more persons had entered the organization.

During the monitoring visit, the temperature of persons entering the departments of the National Center for Mental Health Care was also measured. However, in the 6th department, due to the discharge of the electronic thermometer batteries, the temperature of the Human Rights Defender's representatives was not measured, and the temperature was measured over the protective cover in the 7th department.

Upon entering the territory of theArmash Health Center, the temperature of the representatives of the National Preventive Mechanism was measured by an employee in the lobby by means of a non-contact (electronic) thermometer. The results of the temperature measurement were recorded in a notepad entitled "The Register for the Visitors' Thermometric Data", but the data of not all Human Rights Defender's representatives was announced. It was recorded that even the announced results did not always correspond to the observed indicators. Thus, as a result of the temperature measurement of one of the Human Rights Defender's representatives, the non-contact (electronic) thermometer showed the text "Lo Error", but the employee said it was 36.4 ° C, while it was recorded 36.0 ° C in "The Register for the Visitors' Thermometric Data". Then, the Human Rights Defender's representatives asked for measuring their temperature once again with the same non-contact (electronic) thermometer, and it turned out that it wasn't functioning. Although the directorate of the psychiatric organization informed us that they had bought 4 non-contact (electronic) thermometers: **the non-functioning thermometer used by the employees was used formally, and this practice is unacceptable.**

In the Armash Health Center, the results of temperature measurement are recorded in the register "Results of the Staff's Temperature Measurement and Health Examination" where two columns are provided to record the hours of temperature measurement. The study of the mentioned register revealed that it is filled in a non-common way. Basically, only the first column of the temperature measurement hour is filled in, and the second temperature measurement results are not always recorded.

Improper implementation of preventive measures of the novel Coronavirus (COVID-19) at the entrance to and exit from psychiatric organizations is inadmissible, and does not follow from the requirements of proper implementation of infection prevention measures.

All patients were tested twice in 2020 with rapid diagnostic tests to detect the novel Coronavirus (COVID-19) pandemic in the Armash Health Center.

In this context, the measures, taken to prevent and detect the novel Coronavirus (COVID-19) among patients already admitted to psychiatric organizations, are organized in different volumes.

Thus, according to the information provided by the employees of the National Center for Mental Health Care, the temperature of all patients is measured at least twice a day to detect patients with temperature. At the same time, newly admitted persons with mental health problems are tested for oxygen saturation in the blood with a portable pulse oximeter, and the abovementioned examination is performed once a week in the departments, regardless of the results of the detection of the novel Coronavirus (COVID-19.

In terms of the spread of the novel Coronavirus (COVID-19), persons of the 60 and older age group with chronic diseases are vulnerable and should be given special attention.

According to the information provided by the Ministry of Health of Republic of Armenia, in 2020, about 50% of the patients receiving in-patient treatment in the National Center for Mental Health Care are over 60 years of age, and there were 12 persons with mental health problems suffering from chronic diseases (total number of patients - 406). In the Armash Health Center the number of persons with mental health problems with chronic diseases belonging to the age group of 60 and over was 41% (total number of patients - 85).

It should be noted that at the time of the Human Rights Defender's monitoring visits as the National Preventive Mechanism, no special measures were taken to prevent the spread of infection to patients of 60 and over years of age with chronic diseases in both the National Center of Mental Health Care and the Armash Health Center. They were limited to the abovementioned general measures.

According to the CPT's statement on the principles of treatment of persons deprived of their liberty in the context of the novel Coronavirus (COVID-19) pandemic, *special attention needs to be paid to the special needs of persons deprived of their liberty, especially vulnerable groups (or) risk groups: the older persons and persons who have had a history of illness. This includes screening tests to check for the novel Coronavirus (COVID-19) and providing intensive care if needed. In addition, persons deprived of their liberty should receive additional psychological support during this period*[48].

During the monitoring activities of the National Preventive Mechanism, the focus was also on the availability of the necessary disinfectants, protective measures and their use in psychiatric organizations as part of the measures to prevent the novel Coronavirus (COVID-19).

[48] See: https://rm.coe.int/16809e0703 webpage, as of 31.03.2021, paragraph 6.

According to the information provided by the Ministry of Health, the National Center for Mental Health Care has acquired a sufficient amount of protection measures. During the monitoring visit made by the representatives of the Human Rights Defender, it was noted that there was a sufficient amount of protective and disinfection measures in the Armash Health Center.

Though disinfectants were available in the National Mental Health Center's stocks and departments, there were not enough conditions for patients to use them. In particular, patients of the 7th department disinfected their hands just before entering the canteen, and the disinfectants were found only in the administrative part of the department, out of the reach of patients in the 9th department. Or, according to the information provided, one mask is provided to each patient on a daily basis as a protective measure, however, no patient wore a mask during the visit.

During the monitoring, it was noted that on the eve of the visit, a person undergoing an examination in the 6th department of the National Center for Mental Health Care was diagnosed with the novel Coronavirus (COVID-19), who was transferred to a penitentiary institution. However, the department did not take proper preventive measures with regard to the contact persons. No one, including medical personnel, isolated themselves.

During the monitoring activities, the representatives of the Human Rights Defender recorded that the employees of psychiatric organizations did not wear protective masks properly or wear it in violation of the established procedure (hanging from breastplates, the mask did not cover the nose and (or) mouth), other anti-pandemic rules were not observed. They touched the surface of the masks with their hands, did not maintain social distance, and there were no closed garbage cans for masks and gloves in the corridors.

Based on the foregoing and taking into account that the prevention of the novel Coronavirus (COVID-19) pandemic remains a relevant issue, it is necessary to:

- ✓ ***Carry out proper control over the persons entering the psychiatric organization to maintain anti-pandemic (preventive) measures: disinfection of hands, obligatory temperature measurement, proper registration of results;***
- ✓ ***Provide psychiatric organizations with non-contact (electronic) thermometers that function well;***
- ✓ ***Establish strict control over the temperature measurement of persons entering departments to prevent the novel Coronavirus (COVID-19);***
- ✓ ***Provide patients with a sufficient number of individual protective measures and disinfectants, ensuring their availability;***
- ✓ ***Use separate rooms in psychiatric organizations as needed.***
- ✓ ***Carry out proper medical supervision for the novel Coronavirus (COVID-19) towards persons with mental health problems who are at risk;***
- ✓ ***Implement proper admission of patients in psychiatric organizations in accordance***

with the legal requirements, excluding cases of its illegal rejection;

- ✓ ***Ensure 14-day quarantine isolation and supervision of persons with mental health problems admitted to psychiatric organizations.***

3.7. Restraint Measures

Persons with mental health problems, due to their mental health condition, form a special group of the society. Restraint measures are sometimes used in their regard. These are coercive measures and require special regulations. Criteria for the use of restraint with regard to persons with mental health problems can be a guarantee not to allow any form of ill-treatment or unwarranted interference with their rights.

Within the framework of the National Preventive Mechanism, the Human Rights Defender has consistently raised issues related to the use of restraint and its legal basis. They are recorded in the 2018 AD hoc report[49] of the Human Rights Defender ‘’On Ensuring of the Rights of Persons with Mental Health Problems in Psychiatric Organizations’’, as well as in the Annual reports on the 2018[50], 2019[51] activities of the National Preventive Mechanism.

Practical and legislative issues related to restraint measures were also reflected in the opinions of the Human Rights Defender on the draft law "On Making Amendments to the RA Law "On Psychiatric Care and Services″ submitted to the Ministry of Health. In this regard, the Human Rights Defender's representatives held discussions with the representatives of the Ministry of Health.

On the 18th of June, 2020, the National Assembly of Republic of Armenia adopted the RA Law ‘’On Making Amendments to the RA Law ‘’On Psychiatric Care and Services’’, which entered into force on the 6th of October, 2020[52]. As a result, the law enshrines the procedure, conditions, and features of physical restraint, means of seclusion, sedation methods, instead of being previously regulated by by-laws.

[49] See: https://ombuds.am/images/files/ee7ccaca3559ede0879f42a7fea5b40b.pdf webpage, as of 31.03.2021, pages 36-45.

[50] See: https://ombuds.am/images/files/dcc37ac516d1268bb59999f72c76d982.pdf webpage, as of 31.03.2021, pages 46-55.

[51] See: https://ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpage, as of 31.03.2021, pages 60-75.

[52] According to the mentioned draft law, the title of the law was also changed - the RA Law ‘’On Psychiatric Care and Services ".

Pursuant to paragraph 2 of Article 7 of the RA Law ''On Psychiatric Care and Services'', *physical restraint or seclusion measures or methods of sedation are applied to a person with a mental health problem in case of physical harm to them or their environment, or if there is a real threat or if the use of other means of eliminating the threat (through verbal means, including persuasion) is not enough to eliminate it.*

Although the legislative amendments are a positive development, the monitoring activities of the National Preventive Mechanism shows that the medical personnel of psychiatric organizations were not aware of the amendments made in the abovementioned law and continued to act in accordance with the previous regulations. In 2020, before the abovementioned legislative amendments entered into force on the 6th of October, the use of restraint measures was regulated by the Order No. 2210-Լ of the Minister of Health of Republic of Armenia[53] of 29 August 2018.

As a result of the monitoring activities of the National Preventive Mechanism, problems, related to the use of restraints in psychiatric organizations, have been identified, which will be presented below.

3.7.1. Physical restraint

The Human Rights Defender's representatives have recorded that physical restraint is often used as a measure of restraint in psychiatric organizations during their monitoring visits and studies .

Physical restraint has been used in different places, by different means and by different procedures in all mental health institutions monitored during 2020.

The places, conditions and furnishing are important for proper organization of the physical restraint. In the observed psychiatric organizations, problems were recorded with the placement of rooms for physical restraint in the departments, furnishing with medical equipments and accessibility for medical personnel, as well as their use for other purposes.

Thus, there were no separate rooms for physical restraint in the Armash Health Center and in the 6th department of the National Center for Mental Health Care.

In other departments of the National Center for Mental Health Care, although seclusion rooms were set up where physical restraint was intended, they were not used for this purpose; physical restraint was performed in the hospital rooms in the presence of other patients.

[53] Order No. 2210-Լ "On the Procedure for the Application of Physical restraint, Seclusion Measures and Sedation Methods to Persons Suffering from Mental Disorders in the Organizations Providing Psychiatric Medical Assistance and Services'' of the Minister of Health of the Republic of Armenia of 29 August 2018.

Thus, at the time of the visit to the "restraint room" of the 7th department of the National Center for Mental Health Care, a secluded person with mental health problems was kept, who had been there for seven days. Force-feeding was also performed to the person who went on a hunger strike in the mentioned room. The seclusion rooms in the 9th department of the National Center for Mental Health Care were used as separate hospital rooms on the paid basis, and the seclusion rooms for the physical restraint in the 4th department served as a seclusion room in case of the novel Coronavirus (COVID-19) being diagnosed on request.

Moreover, latticed doors were set in the hospital rooms of the 7th department of the mentioned psychiatric organization including the "restraint room" and the whole process of physical restraint, even if performed in the mentioned room, is visible and audible to other patients. The restraint process is more visible and audible to patients in hospital rooms located adjacent to the said hospital room.

The practice of restraint measure use within the sight of other patients is inadmissible and contradicts the RA legislation.

Thus, according to paragraph 7 of Article 7 of the RA Law ''On Psychiatric Care and Services'', *physical restraint or seclusion measures or sedation methods may not be applied in the presence of other patients, except in cases of urgent need to use physical force, which can be applied in cases of abrupt behaviour change and aggression, to protect the lives or health of others and to prevent the impending severe consequences.*

The procedure of the use of physical restraint was referred to in detail in the AD hoc public report of the Human Rights Defender of RA " On Ensuring the Rights of Persons with Mental Health Problems in Psychiatric Organizations" in 2018, where it was proposed *to strictly observe the criteria of physical restraint as prescribed by law, exclude their use in the presence of other patients, as well as unreasonable intervention of non-medical personnel and purposeful use of seclusion rooms*[54].

Paragraph 3.5 of the CPT's revised Criteria on restraint measures for adults in psychiatric organizations of 21 March 2017 stipulates *that physical restraints should not be used to persons with mental health problems in front of the eyes of other patients*[55]. *According to paragraph 1.7 of the same criteria, each psychiatric organization should have a comprehensive, detailed policy on the use of restraints. Such a policy should be aimed at reducing the use of restraint measures as much as possible, clarifying the measures of restraint allowed in case of their use, and regulating the actions to be taken in termination of the use of restraint measure. The policy should also include regulations for other important issues,*

[54] See: https://www.ombuds.am/images/files/1a342c6fb902f57c52e8495d183e3095.pdf webpage, as of 31.03.2021, pages 41-45.

[55] See: https://rm.coe.int/16807001c3 webpage, as of 31.03.2021.

such as staff training, record maintenance, the formation of internal and external accountability mechanisms, and the development of grievance procedures.

The National Preventive Mechanism has recorded that there are no conditions for the use of physical restraints as needed in the reception rooms of monitored psychiatric organizations; in practice, they are organized by transferring a patient directly to a hospital room of the department or a physical restraint room, if available. At the same time, before reaching the department, they are subjected to physical force, which, however, is not recorded in any way.

Posey's belts are mainly used for physical restraint in the monitored psychiatric organizations. However, other medical items used as a restraint measure were also recorded during the monitoring visits.

Thus, there were restraint measures to fasten two identical poses to one limb and another (''Posey Gait Belt with Handles'') to support the movement of patients at the reception of the National Center for Mental Health Care at the time of the monitoring visit, but the medical personnel introduced it as a necessary means of physical restraint for persons with mental health problems. Moreover, the medical personnel was not informed about the use of the latter. ***Unintentional use of a patient support belt, including as a physical restraint, is unacceptable and may endanger the patient's health.***

There is one set of Posey's belts for the two departments of the National Center for Mental Health Care, which reasonably cannot be considered sufficient. According to the explanations provided by the RA Ministry of Health in 2020, psychiatric organizations did not acquire new resources for restraint measures in 2020.

It should be noted that according to the medical personnel of the monitored psychiatric organizations, Posey's belts are practically uncomfortable, their effectiveness is insufficient, and sometimes it is necessary to use additional physical force (it is difficult to fix a patient, the latter can unbind the ligaments on their own).

It should be noted that in the Sevan Mental Health Center, "dry wrapping" was applied as a measure of physical restraint, which is a bandage with a sheet.

The abovementioned physical measures used in psychiatric organizations were not comfortable, they were unbinded with difficulty, which increases the risk of trauma or of the use of disproportionate force.

Pursuant to part 1 of Article 8 of the RA Law ''On Psychiatric Care and Services'', *non-traumatic, comfortable fasteners, belts, and special clothing made of various materials are used to perform physical restraint by mechanical means.* Part 2 of the same Article *defines that mechanical means of physical restraint must be unbinded easily and must not cause pain to a person with a mental health problem.*

According to clause 3 of paragraph 48 of the 16th General Report on CPT Activities, *when using restraints, it is necessary to do so skillfully, with care, so as not to pose a threat to the patient's health and hurt them. The patient's vital functions, such as breathing, speech, eating, and drinking abilities, should not be impaired*[56].

The National Preventive Mechanism identified another problem during monitoring visits when a person with a mental health problem, who was subjected to restraint, was not under proper medical supervision.

The rooms for the use of physical restraint in the National Center for Mental Health Care were located in separate sections of the departments, away from the offices of nurses and doctors.

Thus, in order to supervise patients in different departments of the National Center for Mental Health Care, the on-duty nurse or the hospital attendant (there is one on-duty nurse or two hospital attendants in the department at night) has not to perform their main functions or exercise control over other patients in the department but control the patient to whom physical restraint has been applied.

Another problem is keeping records about physical restraint in case of its use.

Despite the fact that in 2020 a new law "On Psychiatric Care and Services" was adopted, according to part 10 of Article 7, the authorized body (Ministry of Health) *had to approve a register format of physical restraints or seclusion measures or sedation methods*. However, according to the information provided during the monitoring visits, no new format of the mentioned register was approved, as a result of which the psychiatric organizations continued to maintain the registers of ''Recording of Substantiation of Decisions on the Use or Termination of the Use of the Physical Restraint or Seclusion Measures" intended by Annex 2 of the Order No. 2210-Լ of the Minister of Health of the Republic of Armenia of 29 August 2018.

According to the Ministry of Health, in 2021, the format of the register on the use of physical restraint or seclusion measures or methods of sedation has already been approved by order of the Minister of Health[57].

A study of the register of ''Recording of Substantiation of Decisions on the Use or Termination of the Use of the Physical Restraint or Seclusion Measures" in psychiatric organizations revealed that the records about the use of restraint measures were made more often in the ''Avan'' Mental Health Center, when the latter is not inferior to other psychiatric organizations in terms of the department overcrowding.

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[56] See: https://rm.coe.int/1680696a83 webpage, as of 31.03.2021.

[57] Order No. 17-Ա "On Approving the Register on the Use of Physical Restraint or Seclusion Measures or Sedation Methods" of the Minister of Health of the Republic of Armenia of 15 February 2021.

Thus, 19 cases of restraint use were recorded in the male ward of the ‘’Avan’’ Mental Health Center during 6 months (up to 50 persons were kept), and in the 4th department of the National Center for Mental Health Care, where up to 57 persons were kept, in the same period 9 cases of use of restraint measures were recorded. No cases of restraint measures were recorded during the same period in the Armash Health Center, where 85 persons with mental health problems were kept. Moreover, according to the study of the relevant records of the register, the last restraint measures were used in 2018 in the Armash Health Center.

It should be noted that according to the information provided by the RA Ministry of Health, 292 persons have received treatment in the Gyumri Mental Health Center, 189 persons in the Lori Regional Neuropsychiatric Dispensary, 320 persons in the Syunik Regional Psychiatric-Neurological Dispensary in 2020, and according to the information provided by the mentioned psychiatric organizations, in 2020, there were 8, 4 and 41 cases of the use of physical restraint measures, respectively. The varying number of cases of the use of restraint measures in psychiatric organizations is a matter of concern, both in terms of proper registration and effective treatment.

Examination of records about physical restraint in psychiatric organizations has shown that they have been filled with omissions, non-observance of chronological order, deletions, and so on.

Thus, the cases of the use of restraint measure with regard to patients with mental health problems were recorded without maintaining the chronological order in the register of ‘’Recording of Substantiation of Decisions on the Use or Termination of the Use of Physical Restraint or Seclusion Measures" of the 1st department of the ‘’Avan’’ Mental Health Center.

The study of the abovementioned registers of records kept in psychiatric organizations revealed that in case of the use of physical restraint measures for more than 30 minutes, patients were not properly examined in some cases; the strength of the ligaments, the appearance of the limbs (colouration, possible swelling), the heat of the limbs, the pulse of the limbs below the bandage, the feeling of pain in the placement of the bandage, the sensitivity of the limbs below the bandage were not recorded.

In practice, only the patient's arterial pressure is recorded, in some cases, the number of heartbeats, the temperature, the degree of oxygen saturation in the blood (Syunik Regional Psychiatric-Neurological Dispensary, Sevan Mental Health Center, Lori Regional Neuropsychiatric Dispensary).

Thus, in 2020, patients were physically restrained for 75 and 45 minutes, and only one entry was made in the register of records about the patient's health condition in the 9th female ward of the National Center for Mental Health Care.

Thus, the requirements of part 10 of Article 7 of the RA Law ‘’On Psychiatric Care and Services'' were not observed, according to which, *periodically, no later than 30 minutes, the doctor-psychiatrist examines the person subjected to with physical restraint who has a mental health problem, during which*

they check the strength of the ligaments, the appearance of the limbs (colouration, possible swelling), the heat of the limbs, the pulse of the limbs below the bandage, the feeling of pain in the placement of the bandage, the sensitivity of the limbs below the bandage and a corresponding note is made in the register about the use of physical restraint or seclusion measures or sedation methods.[58]

Improper registration of the information about restraint measures also raises concerns about non-compliance with the established procedure of their use.

One of the problems registered in psychiatric organizations is the use of physical restraint in cases not provided by law.

Thus, from 1 July to 28 July 2020, one of the patient was subjected to physical restraint and medical sedation measures, except on non-working days in the 7th department of the National Center for Mental Health Care, but it was mentioned about only one date, 1 July 2020, in the relevant registers of records. Moreover, the latter did not contain information about sufficient basis for the use of restraint measures: physical restraint was applied "*for resisting force-feeding through tubes*". In another case, on the 23rd of July, 2020, a patient was subjected to physical restraint for *"demonstrative behaviour"*, which in no way could be the basis for the use of restraint. **Such an approach is unacceptable and in some cases may be considered as an ill-treatment.**

The current legislation of the mentioned period, as well as the RA Law "On Psychiatric Care and Services", does not provide a basis for the use of restraint measures in the case of preventing resistance during force-feeding or displaying demonstrative behaviour. ***It is inadmissible to use restraint measures without sufficient legal basis.***

In regional psychiatric organizations, where there are no psychiatrists on non-working days and hours, the decision to use physical restraint or sedation measures is made by the nurse in consultation with the doctor by telephone. At the same time, information about the use of physical restraint or sedation measures is included in the patient's medical history descriptions later, when the psychiatrist comes to work (for example, Syunik Regional Psychiatric-Neurological Dispensary, Gyumri Mental Health Center).

Meanwhile, according to the requirements of part 6 of Article 7 of the RA Law ‘’On Psychiatric Care and Services’’, *physical restraint is performed by the mid-level and junior medical personnel under the supervision of a treating doctor-psychiatrist or an on-duty doctor-psychiatrist*.

[58] The regulation with the same content was envisaged by the Order No. 2210-Լ of the Minister of Health of the Republuc of Armenia of 29 August 2018, which was in force at the time of the visit to the National Center for Mental Health Care.

It is a matter of concern that doctors exercise remote control over the patient's restraint measures or over the process of their use, even though their course can run with a variety of complications, in some cases requiring immediate medical intervention.

Thus, in order to solve the problems related to the use of physical restraint and seclusion measures, it is necessary to:

- ✓ ***Ensure the practical implementation of the relevant requirements of the RA Law ''On Psychiatric Care and Services'' on the use of physical restraint methods;***
- ✓ ***Ensure that mechanical means of physical restraint are non-traumatic, easily unbinded, do not cause pain to a patient and do not pose a threat to their health;***
- ✓ ***Exclude the use of restraints with regard to persons with mental health problems in hospital rooms or in places not intended for its use in the presence of other patients or wards;***
- ✓ ***Properly maintain a register of records of the substantiation of decisions on the use or termination of the use of an appropriate physical restraint or seclusion measures as prescribed by law;***
- ✓ ***Observe the requirements of control over the patient's condition envisaged by the RA Law ''On Psychiatric Care and Services'' in case of the use of measures of physical restraint;***
- ✓ ***Organize regular trainings for medical personnel about the use of physical restraint.***

3.7.2. Drug-induced sedation

In 2020, measures of drug-induced sedation were increasingly used as a measure of restraint with regard to persons with mental health problems in psychiatric organizations.

One of the problems registered in psychiatric organizations is the use of drug-induced sedation as a method of restraint in cases not prescribed by law.

Thus, in the 7th department of the National Center for Mental Health Care, according to the register of "Recording of Substantiation of the Decision on the Use or Termination of the Use of Methods of Drug-induced Sedation'', restraint measure by drugs used was used "to prevent vomiting".

It should be noted that the RA Law ''On Psychiatric Care and Services'' clearly defines the cases of the use of sedation methods. According to part 2 of the Article 7 of the said law, *physical restraint or seclusion measures or methods of sedation are used with regard to a person with a mental health problem in case of physical harm to themselves or their environment or in case of real threat, and if*

other measures aimed at eliminating that threat (through spoken word including persuasion) is not enough to eliminate it.

The use of drug-induced restraint measures is not allowed in cases not prescribed by law.

Monitoring of the National Preventive Mechanism states that sometimes the use of physical restraint was combined with the method of drug-induced sedation, and in some cases they were used separately.

Thus, the representatives of the National Preventive Mechanism recorded that in the register of "Recording of Substantiation of the Decision on the Use or Termination of the Use of Physical Restraint or Seclusion Measures" of the 7th department in 2020, physical restraint measure was used 4 times in the department, and 3 cases were recorded in the register of "Recording of Substantiation of the Decision on the Use or Termination of the Use of the Methods of Drug-induced Sedation" in the National Center for Mental Health Care. In the abovementioned 3 cases, the use of the drug-induced sedation measure was implemented with the physical restraint measure simultaneously. As of the monitoring visit to the Armash Health Center in 2020, only one case of the use of drug-induced sedation method was recorded, which was not implemented combined with physical restraint measures.

Regarding the abovementioned observation, it should be noted that according to the requirements of part 4 of Article 7 of the RA Law "On Psychiatric Care and Services", *the use of physical restraint, seclusion measures and sedation methods may be combined if the duration of their use is reduced from their combination, or if it is necessary to prevent the threat to a person with a mental health problem or other persons.* Part 5 of Article 9 of the same Law stipulates that *physical restraint or seclusion measures must be stopped immediately, if a sedative effect is achieved with the sedation method.*

However, studies show that the need of the use of the combined restraint measures with regard to persons with mental health problems has not been substantiated in every case.

Another issue is the use of drugs not intended for this purpose during the implementation of the drug-induced sedation method.

It should be noted that in accordance with the requirements of part 1 of Article 9 of the RA Law ‘’On Psychiatric Care and Services’’, the drugs prescribed by the list and approved by the authorized body are provided for the purpose of sedation. After the said law entered into force on the 6th of October, 2020, the list of drugs for the mentioned purpose was defined by the Minister of Health of Republic of Armenia only on the 27th of January, 2021[59]. As a result, during the monitoring visits in 2020, it was recorded that psychiatric organizations continued to use the drugs, as a measure of sedation, which have

[59] Order No. 04-Ն "On Defining the List of Drugs Provided for Sedation of a Person with a Mental Health Problem" of the Minister of Health of the Republic of Armenia of 27 January 2021.

been envisaged by paragraph 20 of Annex 1 to the Order No. 2210-Լ of the Minister of Health of the Republic of Armenia of 29 August 2018.

During the monitoring visits, it was noted that in some cases, the requirements of the abovementioned Order of the Minister of Health were not observed.

Thus, during the monitoring visit to the Armash Health Center, a study of the register "Recording of Substantiation of the Decision on the Use or Termination of the Use of Sedation Methods" revealed that the register did not indicate what kind of measure for drug-induced sedation has been applied to the patient. This case was recorded only in the patient's medical history, the study of which revealed that the patient was treated with the drug "Prochlorperazine solution", which, in accordance with paragraph 20 of Annex 1 to the Order No. 2210-Լ of the Minister of Health of the Republic of Armenia of 29 August 2018, is not included in the list of drugs provided for the purpose of sedation. The said drug was also used as a measure for drug-induced sedation in the Sevan Mental Health Center.

It should be noted that a study of the patient's medical history in the abovementioned case revealed that they had been treated with a sedative for more than 10 days, but only one day was recorded in the register of "Recording of Substantiation of the Decision on the Use or Termination of the Use of Sedation Methods". The study of the same patient's medical history and attached prescription sheet showed that they were prescribed antipsychotics, "Prochlorperazine Solution" 2.0 ml for 13 days, "Halopril Solution" 1.0 ml for ten days parenterally, for the sedation, and treatment of the latter.

The practice of using drugs not intended for restraint is extremely unacceptable. The long-term use of unforeseen drugs as a sedative is of great concern.

It should be noted that the Order No. 2210-Լ of the Minister of Health of Republic of Armenia of 29 August 2018 did not envisage the combination of drugs defined as a method of drug-induced sedation and norms regulating one-time or daily maximum doses. These issues were not either regulated by the Order No. 04-Ն of the Minister of Health of Republic of Armenia of 27 January 2021. Though their dosage (for example, "Lorazepam 2 mg tablets") is defined in the Annex to the abovementioned Order, it does not reflect the maximum permissible single or daily dose of the drug in case of its use.

A combination of two drugs ("Halopril" and "Prochlorperazine solution" by intramuscular injection), ("Halopril" and "Sibazon" or "Tizercin" and "Sibazon" by intramuscular injection) is used in the Armash Health Center and in the National Center for Mental Health Care, but there were no instruction on their combination in the abovementioned orders.

A study of the relevant registers revealed that a combination of three drugs (‘’Halopril’’, ‘’Sibazon’’ and ‘’Tizercin’’ by intramuscular injection) was used at the same time as a measure of drug-induced sedation in the Sevan Mental Health Center.

It is very worrisome that in some cases, when using a drug-induced restraint, the information about it is not properly recorded in the relevant registers.

It is also recorded through monitoring that in some cases, the information about the use of restraint measure is recorded in the relevant registers without fixing the date in the National Center for Mental Health Care. For example, 6 entries of the register of "Recording of Substantiation of the Decision on the Use or Termination of the Use of Sedation Methods" in the 9th female ward showed that drug-induced sedation used with regard to persons with mental health problems, but the dates of their implementation have not been recorded. The serial numbers of some recordings are not fixed in the abovementioned register. No dates were recorded in some of the entries in the register of "Recording of Substantiation of the Decision on the Use or Termination of the Use of Physical or Seclusion Measures'' of the 9th female ward.

In psychiatric organizations, recording of the patient's state of health in case of the use of drug-induced restraint remains a concern.

Thus, in practice, only blood pressure was recorded in the column "Recording of Patient Examination Data by a Doctor during the Use of Restraint Measure" of the register of "Recording of Substantiation of the Decision on the Use or Termination of the Use of Sedation Methods" in the 7th department of the National Center for Mental Health Care, and it was mentioned that the health condition is satisfactory. The date about blood pressure, respiratory rate, vascular stroke, body temperature, level of consciousness was recorded in the Armash Health Center. In the monitored psychiatric organizations, the abovementioned records do not specify the time of the medical examination in case of the use of drug-induced restraint.

Observations differ in case of the use of physical restraint measures and drug-induced sedation methods with regard to the patients in different departments of the ''Avan'' Mental Health Center. For example, the data about blood pressure, pulse, skin and the mucous membrane colour, sometimes the absence of swelling, information about the bandages on the limbs, etc. were recorded in case of use of physical restraint measure, but only blood pressure was recorded in case of the use of drug-induced sedation, sometimes the pulse. Similar control is exercised in case of the use of drug-induced sedation on the dynamics of the health status of persons with mental health problems is carried out at the Lori Regional Neuropsychiatric Dispensary and in the Sevan Mental Health Center.

Meanwhile, according to part 4 of Article 9 of the RA Law ''On Psychiatric Care and Services'', *the doctor using drug-induced sedation measures is obliged to examine the person with mental health problems periodically, no later than one hour (vascular stroke, respiratory rate, body temperature, degree of hydration and level of consciousness) and make an appropriate entry in the register on the use of physical restraint or seclusion measures or methods of sedation.*

A similar regulation is contained in paragraph 23 of Annex 1 to the Order No. 2210-Լ of the Minister of Health of Republic of Armenia of 29 August 2018.

Thus, the patients are not properly examined and the requirements of the legislation are not observed in case of the use of drug-induced sedation. At the same time, the procedure for recording the substantiation of the decision on the use or termination of the use of the method of drug-induced sedation prescribed by law is not observed.

Therefore, it is necessary to:

- ✓ ***Exclude the use of drugs not envisaged by law as a method of drug-induced sedation;***
- ✓ ***Properly organize the recording of the substantiation of the decision on the use or termination of the use of the method of drug-induced sedation;***
- ✓ ***Establish proper control over patients who have been subjected to restraint by making records in the prescribed manner;***
- ✓ ***Organize regular trainings for medical personnel about the use of the measure of drug-induced sedation.***

3.7.3. The use of seclusion and physical force measures

Article 10 of the RA Law ''On Psychiatric Care and Services'' envisages the peculiarities of the use of seclusion measures to a person suffering from mental disorders as a restraint measure: procedure, purpose of seclusion, furniture of the seclusion room and responsibilities of the medical personnel.

No cases of seclusion were recorded in the monitored psychiatric organizations in 2020. At the same time, the rooms set aside for this purpose were not properly furnished. These rooms have sometimes been used for physical restraint, force-feeding, or seclusion of persons diagnosed with the novel Coronavirus (COVID-19).

According to the information provided by the Ministry of Health of Republic of Armenia, there are no seclusion rooms for inpatients receiving treatment in the ''Avan'' Mental Health Center and in Syunik Regional Psychiatric-Neurological Dispensary, and the construction and renovation of seclusion rooms continues in the Sevan Mental Health Center. There is a seclusion room at the Lori Regional Neuropsychiatric Dispensary, and if financial resources are available, it is planned to furnish that hospital room.

In practice, the use of physical force to restrain or immobilize the patient precedes the use of physical restraint, isolation measures, or drug-induced sedation with regard to persons with mental health problems in case of a real threat of physical harm to themselves or surroundings in psychiatric organizations,.

In this regard, the Human Rights Defender has always emphasized the need to regulate the use of physical force at the legislative level and to define regulatory norms.

The abovementioned was taken into account during the elaboration of the RA draft law "On Making Amendments to the RA Law "On Psychiatric Care and Services". As a result, the RA Law ''On Psychiatric Care and Services'' envisaged the use of physical force as a measure of restraint with regard to persons with mental health problems, which, according to paragraph 23 of part 1 of Article 3 of the Law, *is directed at restraint or immobilization through the use of proportionate physical force (hand control) of a person with mental health problems.* According to paragraph 3 of Article 8 of the same Law, *physical force must be exercised in such a way as not to infringe on the dignity of a person with a mental health problem: to minimize the risk of harm or injury to a person with a mental health problem.*

Physical force may also be used, for example, to remove a patient from an "inadmissible" area, to ensure the safety of other persons with mental health problems, visitors or medical personnel, and to prevent a real risk of physical harm.

Though the RA Law ''On Psychiatric Care and Services'' envisaged the use of physical force as a measure of restraint, however, the current legislation does not envisage a clear mechanism or procedure for the use of physical force. Practically disproportionate use of physical force is not excluded, depending on the level of training of the medical personnel using it.

According to the CPT, *when using physical force as a measure of restraint, the medical personnel of a psychiatric organization must undergo special training in case of the use of physical force techniques, which will minimize the risk of harm to patients. In addition, holding on to the neck or using measures that obstruct breathing or cause pain to the patient should be prohibited*[60].

Based on the abovementioned, it is necessary to develop a methodology for the use of physical force, as well as to organize regular trainings for medical personnel about the use of seclusion measures.

3.8. Medical personnel

The adequacy and level of training of medical personnel in psychiatric organizations is crucial for the proper and effective organization of the care and treatment of persons with mental health problems.

[60] See: https://rm.coe.int/16807001c3 webpage, as of 31.03.2021, paragraph 3.2.

Examination of the staff lists of psychiatric organizations revealed that the positions of medical, administrative, technical and economic service staff in in-patient psychiatric services in psychiatric organizations subordinated to the RA Ministry of Health are approved by the directors of the organization, which is agreed with the Ministry of Health or regional administrations.

There is no legal act regulating the appointment, distribution and approval of staff in psychiatric organizations, which would comprehensively define the volume of work of psychiatrists, nurses, supervisors, psychotherapists, psychologists and other staff members according to the proportion of persons with mental health problems and workload..

Different psychiatric organizations offer almost the same amount of services, but there is no identical approach to staff selection. Organizations are mainly guided by financial means or the number and types of staff positions already established regarding the selection of staff. As a result, the patient-psychiatrist ratio is different in different psychiatric organizations. The positions of doctors in regional psychiatric organizations are defined by the number of psychiatrists in the region (for example, Syunik Regional Psychiatric-Neurological Dispensary).

In psychiatric organizations, the ratio of the number of patients and mid-level and junior medical personnel also varies. For example, in the departments of the National Center for Mental Health Care, in each of which 2-59 persons with mental health problems actually lived at the time of the visit (the number of patients at the time of the visit was 406), the number of on-duty nurses was 5, 2 nurse matrons, and the number of on-duty hospital attendants was 10 (except for the conscription department, where there were 5 on-duty hospital attendants and 1 day hospital attendant, and in the 7th department – 15 on-duty hospital attendants). For comparison, at the time of the visit, 14 mid-level and 20 junior health workers were involved in the work of the Armash Health Center which has 85 patients.

According to the information provided by the RA Ministry of Health, the psychiatric in-patient department of the Syunik Regional Psychiatric-Neurological Dispensary includes 10 shift nurses, 10 on-duty male hospital attendants, 10 on-duty female hospital attendants (bed fund: 70), 1 shift nurse at the Lori Regional Neuropsychiatric Dispensary, 1 senior nurse, 4 on-duty male nurses, 1 manipulation nurse, 8 on-duty hospital attendants (bed fund - 35), and in the Gyumri Health Center - 10 nurses, 12 on-duty hospital attendants, and the position of a nurse matron was not envisaged in case when the services provided by those organizations are the same (bed fund - 55).

Vacancies have been registered in psychiatric organizations in both technical and economic services, as well as in medical assistance fields (nurse, hospital attendant, financier-economist, etc.). The availability of vacancies for psychiatrists is problematic in this regard. As of the monitoring visit of the Human Rights Defender's representatives, there were 4 vacancies for psychiatrists and one vacancy for an epidemiologist in the National Center for Mental Health Care. According to the information provided by

the Ministry of Health, there was a vacancy for 2 psychiatrists in the in-patient department of the Syunik Regional Psychiatric-Neurological Dispensary.

According to the information provided by the Ministry of Health, *the programme of targeted clinical residency is being implemented, where the list of professions also includes "Psychiatry" and "Child Psychiatry". Within the framework of the programme, in 2019, 1 person was admitted to the residency of Yerevan State Medical University after Mkhitar Heratsi, majoring in "Psychiatry", and in 2020 - 2 persons (including child psychiatry), who will work in relevant psychiatric organizations after graduation.*

In 2020, 2 psychiatrists, graduated from residency, were appointed to work in the relevant regional psychiatric organizations.

The introduction of such programmes to increase the number of psychiatrists is welcome, but efforts should be made to ensure their continuity.

During visits to psychiatric organizations by the employees of the subdivision of the National Preventive Mechanism, it was noted that even in cases where all the positions of the medical personnel are full, there is still a need to review the staff of psychiatrists, mid-level and junior medical personnel.

Thus, apart from the psychiatric organizations located in the city of Yerevan, the regional psychiatric organizations do not have on-duty psychiatrists at night, and the on-duty mid-level medical personnel is not enough.

In the National Center for Mental Health Care (at the time of the visit, the number of patients was 406) only one psychiatrist was involved in the night shift, who was at the reception after working hours (from 16:12).

In the Armash Health Center, Syunik Regional Psychiatric-Neurological Dispensary and Gyumri Health Center psychiatrists do not implement 24-hour duty. Admission of patients is done by telephone, and in some cases by calling a doctor.

Contrary to what is described, according to paragraph 33 (1) of Annex 1 to the RA Government Decree No. 1936- Ն [61] ''On the Personnel Quantity'' of 5 December 2002*, the position of a doctor of the reception in the RA regional and city hospital institutions is a mandatory condition.*

[61] The RA Government Decree No. 1936-Ն''On Approving the Necessary Technical and Professional Qualification Requirements and Conditions for Polyclinics (mixed, adult and pediatric), Separate Specialized Rooms, Family Doctor Offices, Out-patient Clinics, Rural Health Centers, Obstetrics and Gynecology centers, Women's Consultations and Hospital (Specialized) Medical Assistance and Services″ of 5 December 2002.

It should be emphasized that the RA Law ‘’On Psychiatric Care and Services’’ defines the responsibilities of the on-duty doctor, such as making a decision on the use or termination of the use of restraint measures to patients, and exercising control during that time. According to paragraph 6 of Article 8 of the said law, *physical restraint is carried out by the mid-level and junior medical personnel under the supervision of a treating doctor-psychiatrist or an on-duty doctor-psychiatrist.* Moreover, one of the requirements of the Annex approved by the RA Government Decree No. 711- Ն "On Approving the Procedure for Providing Out-patient and In-patient Psychiatric Medical Assistance" of 1 April 2010 stems from the need for an on-duty doctor o on non-working days in the organization providing psychiatric medical assistance.

Thus, according to paragraph 30 of the Annex to the mentioned Decree, *if a patient does not have instructions for psychiatric in-patient hospitalization, the on-duty doctor refuses to admit the patient to a psychiatric establishment, making a reasoned entry in the register,* and according to paragraph 33, *the patient admitted to the psychiatric hospital on the first day, is examined by the treating doctor and those taken on weekends by the on-duty doctor.*

As for the mid-level and junior medical personnel, in this connection it was registered that in the Armash Health Center, where 85 patients received treatment, after 16:12, one on-duty nurse and 3 hospital attendants worked. For comparison, it should be noted that 1 nurse worked in a number of departments with 54-60 beds in the National Center for Mental Health Care (1st, 2nd, 4th, 5th, 8th-9th departments) - 1 nurse and 2 hospital attendants.

During the monitoring visits carried out in 2020, it was noted that the number of mid-level and junior medical personnel in the departments of psychiatric organizations where persons in special care are kept is particularly insufficient.

Therefore, it is necessary to fully assess the needs of psychiatric organizations, the results of which will help to determine the optimal ratio of patients and medical or service staff, as well as to clarify the workload of each.

This issue is also addressed in the 8th General Report of the CPT, *according to paragraph 42 of which, the human resources must be adequate in quantity, composition (psychiatrist, therapist, nurse, psychologist, occupational therapist, social worker, etc.), as well as in terms of professional experience and training*[62].

Regarding the professional training of medical personnel, it should be noted that not all members of the psychiatric organization receive regular professional training. However, they should not only be regular, but also relate to the organization of patient care within the framework of medical assistance of persons

[62] See: https://rm.coe.int/1680696a72 webpage, as of 31.03.2021.

with mental health problems, including international standards for them. There is a special need for training of medical personnel in communicating with patients, developing effective communication skills, applying a person-centered (patient-centered) approach, as well as being aware of and applying modern principles of medical ethics (deontology). Moreover, it was noted that the medical personnel in the monitored psychiatric organizations was not familiar with the new provisions of the RA Law ‘’On Psychiatric Care and Services’’ during the monitoring visits.

Therefore, in order to solve the abovementioned problems, it is necessary to:

- ✓ ***Completely assess the needs of medical and technical-economic service staff of psychiatric organizations;***
- ✓ ***Define the optimal ratio of patients and medical or service staff, as well as specify the volume of work and functions of each;***
- ✓ ***Provide on-duty psychiatrists in regional psychiatric organizations;***
- ✓ ***Provide for the position of at least one psychiatrist at the receptions of psychiatric organizations, in accordance with paragraph 33(1) of Annex 1 to the RA Government Decree No. 1936- Ն ‘’On Personnel Quantity’’ of 5 December 2002;***
- ✓ ***Organize 24-hour and proper reception of citizens in psychiatric establishments;***
- ✓ ***Fill the vacancies within psychiatric organizations, as well as involve the necessary specialists and sufficient quantity of staff in their activities;***
- ✓ ***Review relevant training programmes for medical personnel, including their duration, frequency and content***.

3.9. Drugs and medical supplies

In psychiatric organizations, patients are mainly treated with a variety of drugs. Drugs continue to dominate in individual patient care programmes. Violations of the regimes of drug storage and conditions, as well as the presence of expired drugs in those organizations, are strictly inadmissible in connection with the implementation of drug-induced treatment in psychiatric organizations.

During the 2020 monitoring visits, expired drugs were found in the Armash Health Center. Thus, during the visit, 1 box (10 vials) of expired drug - "Vikasol-Darnitsa" was found in the intervention room of the Armash Health Center, two months after its expiration date. At the same time, there were ‘’Nitroglycerin’’ tablets stored in paper "homemade envelopes", the dates of which were not written on the envelope.

Moreover, at the time of the visit, there was a ‘’Phenazepam’’ pill on the phone put the table in the room of the psychiatric organization, which, according to the nurse, had not been given to the person with mental health problems previous evening, as they were weak and sleepy. Meanwhile, according to the record of the on-duty nurse made in the register that day, no problem was observed regarding whether

or not to provide drugs to patients. According to the mentioned record, the persons with mental health problems were calm during the day, drank their sleeping pills in the evening and slept peacefully.

To the Human Rights Defender's representatives' question on how to deal with the mentioned psychotropic pill, it was answered that the mentioned pill will be provided to the patient on the day of the visit. Examination of the prescription sheet showed that the mentioned psychotropic pill was given to two patients in a dose of one pill per day. On the day of the visit, based on the appointments in the intervention room, the senior nurse had already selected the psychotropic drugs to be received by the patients during the day, where there were 2 tablets of "Phenazepam". At the same time, as of 28 December 2020, 2 tablets of "Phenazepam" has already been prescribed and this was recorded in the register of "Nominal and Quantitative Calculation of Psychotropic (Psychoactive) Drugs, Narcotic Drugs by the Doctor On-Duty and Senior Nurse of the Institutions Implementing Urgent Emergency Medical Assistance and Service and in the Institutions Implementing In-patient Medical Assistance and Services''.

The Human Rights Defender considers it necessary to state that the use of expired medications is inadmissible. Preservation of drugs in a psychiatric organization should be carried out under proper control, such as overseeing the process of provision of the prescribed drug to patients or the process of refusing to take drugs by the latter.

It is necessary to take steps for proper storage of drugs, and in case of their violation, the prohibition of such drugs to be properly organized.

At the same time, in the Armash Health Center there, the number of drugs is written by a pencil in the register of "Nominal and Quantitative Calculation of Psychotropic (Psychoactive) Drugs, Narcotic Drugs by the No-duty Doctor and Senior Nurse of the Institutions Implementing Urgent Emergency Medical Assistance and Service and in the Institutions Implementing In-patient Medical Assistance and Services''. There were numerous deletions and corrections in the mentioned register, sometimes the quantitative data of the drugs were not signed by the medical worker.

In this context, it should be noted that the study of the "Calculation of Psychiatric Drugs by the Senior Nurse of the 6th In-patient FPE Department" of the 6th department of the National Center of Mental Health Care revealed that the required data on the drug "Sibazon" were filled in with a pencil. There were also many deletions and corrections in the mentioned register.

Such a practice is unacceptable; making entries in the registers with a pencil can lead to abuses, taking into account that psychotropic drugs recorded in the register are included in the list of psychotropic (psychoactive) drugs, narcotic drugs and their precursors, which are subject to control in the Republic of Armenia, approved by the RA Government Decree No. 1129-Ն of 21 August 2003.

The affordability of the drug procurement process remains a concern. According to the information provided within the framework of the *annual* surveys of the Ministry of Health of the Republic of Armenia, the purchase of drugs in psychiatric organizations is carried out on a centralized competitive basis, with pre-prescribed types and quantities of drugs. However, when the necessary drug is over or there is a need for drugs that could not have been planned in advance (for example, hormonal drugs, anti-inflammatory creams, etc.), the organization is unable to obtain them in a timely manner, and organize effective treatment of patients and wards.

Therefore, the policy of providing psychiatric organizations with drugs needs to be reviewed.

Based on the abovementioned, it is necessary to:

- ✓ ***Establish proper control over the circulation of obsolete drugs in psychiatric organizations, as well as the circulation of expired medications and supplies, including their use, to exclude any such practice;***
- ✓ ***Provide appropriate and safe conditions for the storage of drugs, including psychotropic drugs, in psychiatric organizations;***
- ✓ ***Establish strict control over the administration of psychotropic drugs and its actual registration;***
- ✓ ***Take steps to properly maintain and control the registration of narcotic drugs, psychotropic (psychoactive) drugs;***
- ✓ ***Develop mechanisms for more efficient organization of the process of purchasing drugs and other necessary items and devices in psychiatric organizations***.

3.10. Medical records keeping and organization of medical interventions

In medical institutions, information about patients receiving medical assistance and services, its course and results is registered in medical records, in particular, in medical histories and medical cards. These documents include, among other information, a description of the patient's health condition, diagnosis, medical interventions, treatment course and outcome, as well as the grounds for restricting the person's rights and other important information. Relevant procedures are established by the legislation on maintenance of various medical records.

However, due to the absence of special procedures, the issue of a unified approach to filling out medical histories remains a problem in psychiatric organizations. Studies conducted by representatives of the National Preventive Mechanism during monitoring visits to psychiatric organizations show that disease histories in different organizations are completed at different times and frequencies. According to the relevant records of medical histories, dynamic monitoring of patients is carried out every day if the person has an acute psychiatric diagnosis, and if the patient's condition stabilizes, once a week or every

15-30 days. Cases have been recorded, when the entries on the process of illness were made every 2 months in the medical history. Occasionally there is a record of illness when there is a need to change the drug prescribed to a person with a mental health problem.

At the same time, in psychiatric organizations, when persons with mental health problems are kept on the full time basis, the pages of medical histories are usually not enough, as a result of which additional pages are added to the histories. There are no common rules or practices in this regard.

Numerous cases of improper handling of medical recordings were reported in psychiatric organizations monitored in 2020.

Thus, the "Mental State" section in the medical history of one of the patients in the Armash Health Center was not filled in. Moreover, in the same medical history, the signature of the head of the department is missing under the primary examination.

In some cases, there were prescriptions on a patient's prescription forms that were not recorded by the treating doctor. The reasons for their prescription, the descriptions of the dynamics of the state of health were absent in the medical history. Moreover, in a particular case, the last recording on the patient's health was made about a month before the drug was prescribed.

The results of laboratory tests of patients receiving treatment in the Armash Health Center are kept separate, which is explained by the inconvenience of attaching them in the descriptions of the medical history. However, all laboratory and instrumental tests in the National Center for Mental Health Care are attached to the descriptions of the medical history.

Representatives of the National Preventive Mechanism recorded in the National Center for Mental Health Care that information on the dynamics of the patient's health in the medical records was made without observing the sequence of days, or the drug was prescribed without any justification. For example, in the 7th department of the mentioned organization, according to the patient's medical history, on the 19th of July, 2020, they were given 1 tablet of ''Lorazepam'', which had not been prescribed before, and the reason for giving it was not substantiated. In the same patient's medical history, after the psychiatrist's 19 July 2020 entry, there was a note from the therapist about the 17 July 2020 examination.

Improper handling of medical records causes difficulties in assessing the proper treatment of a person or the substantiation for the restriction of rights, as it is concerned with the effective treatment of patients and the protection of their rights.

In some psychiatric organizations, commission examinations are not properly organized.

Thus, in the National Center for Mental Health Care, the records of the commission psychiatric examinations are not signed by all the participating doctors. Most of the medical histories examined in the 7th department of this organization did not have the signatures of the doctors participating in

recording of the commission psychiatric examinations (for example, there weren't the signatures of three of the four doctors in the commission conclusion of the patient's history description). The results of the primary examination of the patient in the 4th department were not signed by the two doctors who participated in the joint examination.

Awareness of patients and their rights is not properly organized.

In both Armash Health Center and National Center for Mental Health Care, patients' signatures on in-patient care agreements and the information leaflets were largely formal because they were unaware of their rights, in particular, to leave the organization at any time or to refuse treatment. This situation is common in all psychiatric organizations. This was evidenced by the closed doors of departments of patients' receiving "voluntarily" treatment, as well as numerous complaints to the Human Rights Defender's hotline number.

Examination of the information leaflets in the descriptions of the patient's medical history of the Armash Health Center revealed that they corresponded to information leaflet format envisaged by the Order No. 16 "On Approving the Format of the Awareness Leaflet about Human Rights of a Person in the Psychiatric Organization and on Recognizing the Order No. 14-Ն of the Minister of Health of the Republic of Armenia of 19 July 2010 as Invalid'' of the RA Minister of Health of 7 August 2018. It should be noted that on the 18th of June 2020, the RA National Assembly adopted the RA Law "On Making Amendments to the RA Law "On Psychiatric Care and Services", which entered into force on the 6th of October, 2020. According to paragraph 18 of part 1 of Article 3 of the RA Law ''On Psychiatric Care and Services'', the information leaflet is a template document approved by the RA State Administration in the field of healthcare. Despite the mentioned legislative regulation, the results of the visits of the representatives of the National Preventive Mechanism in 2020 show that in fulfillment of the mentioned, a corresponding new by-law was not adopted in 2020. The draft order of the RA Minister of Health approving the format of the information leaflet was submitted to the Human Rights Defender's Office in 2021.

Improper awareness makes persons in psychiatric organizations more vulnerable.

Summarizing the abovementioned, it is necessary to:

- ✓ ***Establish common standards for maintenance medical recordings in psychiatric organizations and ensure their proper management, as well as establish strict control over them;***
- ✓ ***Follow the procedure of organizing commission examinations;***
- ✓ ***Implementation of paragraph 18 of part 1 of Article 3 of the RA Law "On Psychiatric Care and Services", to develop, to approve the format of an information sheet on the organization of examination, treatment and care in psychiatric organizations;***
- ✓ ***Properly organize awareness of patients' rights.***

3.11. Medication-assisted treatment

In psychiatric organizations medication-assisted treatment continues to dominate in individual patient treatment programmes, while alternative (art therapy, educational, occupational, work, etc.) treatment programmes are almost never implemented.

During the monitoring visits made by the representatives of the National Preventive Mechanism to psychiatric organizations, the practice of unjustified multi medication-assisted treatment (drug combinations) was applied to the patients for care and treatment purposes. Moreover, studies of medical histories have shown that medication-assisted treatment of patients in psychiatric organizations is mainly carried out with "first generation" antipsychotic drugs, such as "Haloperidol", "Triftazine", "Levomepromazine" and others. Patients are often assigned one at a time more antipsychotic drugs without proper justification, not including an objective description of the patient's mental state and the need for the drugs or their combination.

It should be noted that the combination of more than one antipsychotic drug may endanger the patient's health due to the side effects of concomitant antipsychotic drugs, in particular, the manifestation of extracorporeal symptoms. Frequent outbreaks of extracorporeal disorders in patients have been described in the "On-Duty Nurse Report" register of psychiatric departments.

During a follow-up visit to the National Center for Mental Health Care, studies of patients' medical histories showed that sometimes the prescribed drug was changed without substantiation.

Thus, on the 27th of February, 2020, in the medical history of one of the patients in the 4th department of the mentioned organization, a change of drug was made, "Apaurin" and "Tizercin" solution were added to the drug (before that the patient received "Carbamazepine", "Diazepam", "Rispaxol tablets (other drugs) in the period when from 17 to 28 February, the general condition of the latter was assessed as satisfactory: *"the behaviour was regular, did not break the regime, sleep and appetite was sufficient''*.

A similar example was registered in the Armash Health Center, where a person with mental health problems was prescribed three antipsychotic drugs at the same time: "Haloperidol", "Triftazine", "Azaleptin". In addition, 2 of the prescribed antipsychotic drugs are classified as first-generation neuroleptics.

In another case, the patient was prescribed 4 antipsychotic drugs: "Haloperidol", "Pro chlorpromazine", "Triftazine", "Azaleptin", 3 of which are among the first generation neuroleptics. There was no substantiation in the medical history about the need for concomitant use of this drug..

It should be noted that in these cases no clinical evaluation was performed on the patients, which includes physical examination of the patient and laboratory-instrumental examinations.

Thus, the combination of several unwarranted antipsychotic drugs in patients without clinical observation and evaluation may increase risk of side effects (extracorporeal and other disorders) of the drug taken.

A study of medical histories in psychiatric organizations revealed that the change in psychiatric drug was made without justifying the need for the change. It is also unacceptable that psychotropic drugs are prescribed and taken to treat non-psychiatric problems, such as facilitating breastfeeding (the problem is described in more detail in Subchapter 3.14 of this chapter of the report).

In this regard, in paragraph 113 of the 2017 report on the visit to Latvia, the CPT proposed that s*teps be taken to develop an individualized treatment plan for each patient in psychiatric organizations (taking into account the specific needs of patients receiving acute, long-term treatment, including risks, may be available to the latter), which will include information on treatment goals, therapies used, and responsible medical personnel. Patients should be informed of their individual treatment plans: progress made during treatment. Moreover, they should be involved in the development and implementation of these programmes.* In addition, according to the CPT, *the management of the psychiatric organization should seek to expand the therapies used to involve more patients in psychiatric re-socialization programmes, preparing them for a more autonomous life or return to family. Occupational therapy should be an important component of a patient's long-term treatment plan, providing motivation for persons with mental health problems to study, socialize, communicate, develop special skills, and increase self-esteem. To this end, it is necessary to develop the skills and abilities of psychologists, ergo therapists and other professionals*.

According to Article 114 of the same report, the *CPT reported no problems with the supply of psychotropic drugs , including new-generation drugs, to the psychiatric organization. In this regard, the CPT is concerned that a number of patients have been receiving high-dose of the older generation (''Haloperidol'') and other strong sedatives over a long period of time.* According to the CPT, *in the observed cases, the patient's mental state cannot be justified in any way by the use of high doses of various drugs, such as also the long-term use of sedatives.* The CPT demanded clarifications from the Latvian authorities *on the widespread and high-dose use of strong sedatives of the older generation*[63].

Based on the abovementioned, it is necessary to:

- ✓ ***Review the simultaneous prescription of several antipsychotic drugs in psychiatric organizations, especially in case of first-generation neuroleptics;***
- ✓ ***Develop clinical guidelines for examination of persons with mental health problems***

[63] See: https://rm.coe.int/pdf/168072ce4f webpage, as of 31.03.2021.

and organization of treatment.

3.12. Laboratory and other examinations

In psychiatric organizations, it is necessary to carry out various medical interventions, including laboratory-instrumental examinations, during the in-patient treatment and proper care of persons with mental health problems.

During the monitoring visits, the implementation of laboratory tests during the organization of in-patient treatment and care of persons with mental health problems in psychiatric organizations was thoroughly studied. During the visits, the staff of the National Preventive Mechanism reported that there was a non-identical approach to the implementation of laboratory-instrumental examinations in psychiatric organizations, and the requirements for their mandatory implementation differed. During the monitoring activities, it was stated that each psychiatric organization determines the volume of laboratory-instrumental examinations independently, within its capabilities.

In the psychiatric organizations monitored in 2020, laboratory tests were conducted on site. At the same time, psychiatric organizations with laboratories have conducted various studies.

The laboratory of the National Center for Mental Health Care conducts blood (with leuko formula) and general urine test, blood biochemicals (creatinine, urine, bilirubin, cholesterol, blood sugar and other indicators) and serological examinations. Admissions are general blood tests, blood biochemical tests, as well as electrocardiography. During the hospital stay, patients are given a "blood test" every month, according to the medical instructions, a biochemical examination.

In the National Center for Mental Health Care, persons with mental health problems undergo a general blood test (with leuko formula) once every 10 days if they are given ‘’Azaleptin’’ (‘’Clozapine’’).

Another range of laboratory tests includes monitoring of persons with mental health problems in the Armash Health Center for treatment or care. Thus, when admitted to the mentioned psychiatric organization, the patients undergo a general blood-urine test, blood sugar test, temperature measurement and weighing. Laboratory tests are repeated once a month, as needed.

As for the regular examination of patients receiving ‘’Azaleptin’’ (‘’Clozapine’’) in the Armash Health Center, it was reported during the monitoring visit that it was organized in the Ararat Medical Center before the novel Coronavirus (COVID-19) pandemic. However, in case of novel Coronavirus (COVID-19) (from March to December 28, 2020) the examination was not performed due to limitation of the patient mobility.

Despite the potential for prevention of the novel Coronavirus (COVID-19) pandemic, blood tests for persons taking ‘’Azaleptin’’ (‘’Clozapine’’) should be on a regular basis to avoid potentially fatal side effects (agranulocytosis).

In connection with the abovementioned issue, it should be noted that according to the information provided by the Ministry of Health within the framework of the *annual* survey, patients receiving ‘’Azaleptin’’ (‘’Clozapine’’) treatment in the ‘’Avan’’ Mental Health Center are tested for serum transaminases. If ‘’Azaleptin’’ is prescribed for the first time in a lifetime, the test is performed before starting treatment, then repeated once every 14 days for the first 4 weeks, and then once a month until the 19th week of treatment. Then, once every 3 months the level of transaminases is determined periodically.

According to the information provided by the Ministry of Health, the general blood test (with leuko formula) is performed once a month in Syunik Regional Psychiatric-Neurological Dispensary, and 2-3 times a year in the Sevan Mental Health Center, as needed. At the Lori Regional Neuropsychiatric Dispensary, in the Gyumri Mental Health Center, a general blood test (with leuko formula) for persons with mental health problems receiving ‘’Azaleptin’’ is performed according to the instructions for prescribing the drug.

To summarize the abovementioned, it should be noted that patients receiving ‘’Azaleptin’’ (‘’Clozapine’’) treatment in different psychiatric organizations undergo various tests (for example, determination of serum transaminases), and in organizations where a general blood test is performed (with leuko formula), it is organized at different intervals.

In this regard, it is possible to emphasize the concern set forth in paragraph 124 of the CPT's 2016 Report on Armenia, according to which *the official instructions of the ‘’Gyumri Mental Health Center’’ CJSC to provide regular blood tests to persons with mental health problems when prescribing ‘’Clozapine’’ were not given. ‘’Clozapine’’ can lead to potentially fatal white blood cell deficiency (granulocytopenia as a side effect* [64].

According to the *annual* report of the Ministry of Health, *psychiatric organizations have been offered to perform regular blood tests on patients receiving the abovementioned ‘’Azaleptin’’ (‘’Clozapine’’) drug at regular intervals indicated on the instruction sheet*.

Therefore, blood tests (with leuko formula) for patients receiving ‘’Azaleptin’’ (‘’Clozapine’’) should be performed on a regular basis.

[64] See: https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806bf46f webpage, as of 31.03.2021.

The monitoring of the National Preventive Mechanism shows that psychiatric organizations do not conduct regular examinations for the prevention of tuberculosis in a clearly defined manner.

During the monitoring visit to the National Center for Mental Health Care, it was recorded that the patients receiving care and coercive trearment for many years did not undergo fluorographic examination, which is a matter of great concern.

According to the information provided by the Ministry of Health on the organization of measures to prevent tuberculosis in psychiatric organizations in 2020, fluorographic examinations were conducted in October 2020 at the Syunik Regional Psychiatric-Neurological Dispensary with the support of the Armenian Red Cross Society. During 2020, fluorographic examinations were performed in the Armash Health Center for only 10 persons as needed. Other psychiatric organizations have not performed fluorographic examinations, which is very worrisome.

It should be noted that in the National Center for Mental Health Care it is possible to organize sonographic-X-ray examinations as needed but the relevant specialists (sonographer, radiologist) are absent.

Based on the abovementioned, it is necessary to establish standards for psychiatric medical assistance, and guidelines for the management of illnesses, which will include laboratory-instrumental examinations, in order to demonstrate a common approach to conducting examinations of persons with mental health problems in organizations. providing psychiatric care and services. Patients taking ''Azaleptin'' (''Clozapine'') and ''Aminazine'' should be periodically screened for a general blood test with leuko formula and electrocardiogram.

Summarizing the abovementioned, it is necessary to:

- ✓ ***Establish appropriate guidelines and criteria depending on the diagnosis and the course of treatment in order to demonstrate a common approach to conducting examinations of persons with mental health problems in psychiatric organizations;***
- ✓ ***Regularly test the blood leuko morphology of persons receiving ''Azaleptin'' (''Clozapine'') drugs;***
- ✓ ***Carry out fluorographic examinations for the prevention of tuberculosis in long-term care patients in psychiatric organizations.***

3.13. Opportunity to use specialized medical services

Persons with mental health problems sometimes need the advice of various medical professionals or a variety of medical interventions while being in in-patient psychiatric organizations.

According to the information provided by the Ministry of Health of the Republic of Armenia, in accordance with the Order No. 1234-Ա "On Approving the Procedure for Admission to General type departments of Psychiatric Hospitals for Persons Suffering from Mental and Behavioural Disorders" of the Minister of Health of 30 May 2014, in case of such diseases and injuries, the treatment of which requires the provision of qualified and specially specialized examination and medical assistance, referral of the patient by psychiatric organizations to the appropriate specialized medical organization is made.

Notwithstanding the abovementioned, the consultations of medical specialists or the necessary medical interventions are organized according to the preference of the directorate in various psychiatric organizations.

During the monitoring visit, it was recorded that the staff list of the National Center for Mental Health Care includes the positions of therapist, neurologist and cardiologist, all of which were filled. During the visit, however, it was recorded that in the abovementioned organization, professional advice and treatment instructions for persons with mental health problems continue to be provided by psychiatrists who haven't any other narrow-field professional qualifications.

Thus, the therapist's consultation with the patient who went on a hunger strike in the 7th department was carried out only 35 days after the refusal to eat, in connection with a specific complaint (the patient complained of constipation, was prescribed "Senadex" and vegetable oil), the latter was intervened only with the prescriptions by a psychiatrist. Another problem was recorded when a patient on a hunger strike had a biochemical blood test twice as high of the free bilirubin level. However, the psychiatrist, taking into account the fact that the person's health is endangered, added an antipsychotic drug "Zolaxa" to the treatment scheme, according to the relevant record, to help regulate the mental state and help end the hunger strike.

It is worrisome that, in general, narrow-field professional consultations are organized in the National Center for Mental Health Care in case of urgent need, and psychiatrists themselves prescribe treatment for somatic disorders.

According to the information provided by the Ministry of Health of the Republic of Armenia, there is an agreement between the National Center for Mental Health Care and the ″Erebuni Medical Center″ CJSC, where all consultations are carried out, and if necessary, laboratory and instrumental examinations are performed.

During the monitoring visit to the Armash Health Center in connection with the organization of narrow-field professional consultations, it was recorded that the staff list of the mentioned organization envisages part-time therapist positions. The mentioned position was jointly occupied by the psychiatrist, the head of the department. However, a review of patients' medical histories revealed that other psychiatrists at the organization had also provided counseling and treatment to patients with somatic complaints.

Thus, according to the patient's medical history, it has been recorded cough, flu, signs of acute upper respiratory infection or diarrhea, dyspeptic symptoms, headache and a complex treatment was prescribed by a treating psychiatrist. According to another patient's medical history, the psychiatrist prescribed the patient a treatment for high fever, cough, and sore throat.

The Armash Health Center has signed contracts with the Ararat Medical Center to use other professional medical services as needed.

There are many cases of psychiatrists prescribing treatment independently for patients with somatic disorders. The practice of prescribing treatment for somatic disorders by a non-therapeutic psychiatrist raises reasonable concerns about the latter's jurisdiction and professional competence.

According to the information provided by the RA Ministry of Health, all psychiatric organizations have signed agreements with regional specialized medical centers to use specialized medical services.

Thus, at the Lori Regional Neuropsychiatric Dispensary, persons with mental health problems, if necessary, used narrow-field professional medical services in 2020, which according to the contract, were provided by doctors-specialists of the "Vanadzor Medical Center" CJSC. Narrow-field professional medical services in the Gyumri Mental Health Center are provided on the basis of contracts by the narrow-field specialists of the "Gyumri Medical Center" CJSC.

The Seven Mental Health Center employs a surgeon, therapist, cardiologist, neurologist, and the Syunik Regional Psychiatric-Neurological Dispensary has a therapist, as they have signed a cooperation agreement with the ‘’Kapan Medical Center’’ CJSC.

In the‘’Avan’’ Mental Health Center, all patients treated in hospital are examined by the organization's therapist and, if necessary, by a neurologist. In case of the need for other specialists, according to the information provided by the Ministry of Health, specialists from other organizations providing medical assistance are involved.

Thus, different psychiatric organizations involve doctors with different specializations. At the same time, the legislation does not define a clear list of specialized doctors and medical personnel in psychiatric organizations.

It should be noted that almost all psychiatric organizations do not have access to gynecological services (including preventive care) when the majority of patients are women.

The study relealed that almost all persons with mental health problems have dental problems in almost all psychiatric organizations - partial or complete adhesions, the need for dental or gum treatment, as well as prosthetics. **The problem is more relevant among patients receiving care services. It should be emphasized that dental problems can lead to malnutrition.**

According to the written explanations of the Ministry of Health, the dental care and service of Lori Regional Neuropsychiatric Dospancery is carried out by the means of the patients and in the absence of relatives, with the means of the dispensary. In the Gyumri Mental Health Center, dental care and services are provided on a paid basis, at the expense of the medical institution, on a contractual basis, which includes tooth extraction, caries treatment, and prosthetics are not included. Patients' dental care is provided through the dentists of the "Sevan Medical Center" CJSC. At the Syunik Regional Psychiatric-Neurological Dispensary, dental care is provided on a contractual basis by the ‘’Vova Dent’’ LLC, but no prosthetics were provided in 2020. In the‘’Avan’’ Mental Health Center, dental care for hospitalized patients is provided through the involvement of specialists from other health care organizations.

The National Center for Mental Health Care has a dental office, where, according to the information provided, in 2020, 440 patients underwent oral cavity examinations. About 1/3 of them underwent dental treatment, about 2/3 underwent tooth extraction, and 2 prostheses were performed.

During the monitoring visit, it was found out that a number of persons with mental health problems kept in the Armash Health Center have dental problems, such as partial or complete dentition, treatment of teeth or gums, as well as the need for prosthetics. Dental problems can lead to malnutrition and, as a result, negative consequences. However, dental care for persons with mental health problems in the center is not properly organized.

According to the information provided by the Ministry of Health, the patients with urgent dental problems were taken to the Armash Health Center accompanied by the staff to the nearest dental office for assistance, as well as the consultation of a specialist, if necessary. In 2020, 2 patients underwent prosthetics.

Thus, patients receiving treatment in psychiatric organizations have limited access to dental services.

Respectively, persons with 1st, 2nd and 3rd group disabilities, as well as those cared for in nursing homes, enjoy the right to receive free, preferential medical assistance and services guaranteed by the state according to points 2, 3, 4, 20 of the list of socially vulnerable and separate (special) groups of the population entitled to free, preferential medical assistance and services guaranteed by the State according to Annex 1 to the RA Government Decree No. 318-Ն of 4 March 2004. Annex 8 to the same Decree defines the volumes of services provided to socially vulnerable, separate (special) groups of the population entitled to free and preferential dental services guaranteed by the State, and the number of compensation types, according to which for the 1st group disabled (most of care patients are recognized as 1st degree disabled) the main part of dental care is free of charge, including full or partial removable tin prosthesis.

Despite the abovementioned legislative regulations, the process of proper dental care, including prosthetics, in psychiatric organizations during the monitoring visits, did not cover a sufficient framework, as there were no common mechanisms for organizing it.

Concerns remain with persons with mental health problems in the 6th Department of the National Center for Mental Health Care, with access to the services of specialists in other medical centers as needed. Difficulties arise especially when such a need arises in the evening. The transfer of the mentioned persons is carried out by the specialized convoy subdivision of the RA Police on the basis of the relevant decision. However, in emergencies, it is virtually impossible for the staff of the National Center for Mental Health Care to obtain a written document that will serve as a basis for withdrawing a person from the 6th department, which may result in inadequate medical assistance or delayed delivery, which can have serious consequences.

Thus, during the monitoring activities, the study of the facts showed that the health condition of the examinee kept in the in-patient examination department of the National Center for Mental Health Care deteriorated sharply at around 20:15, their consciousness was darkened, they did not respond to sounds, vomited, hemodynamic data were preserved, was painful to the touch on the abdomen, was called to the emergency room service: according to the decision of the doctor of the ambulance service called at 20:40, and of the on-duty doctor of the mentioned psychiatric organization, the person needed to be transferred to a specialized medical institution, but their transfer was organized only after 3 hours. **Such delays are unacceptable and can have serious consequences.** Moreover, the examinee is transported only accompanied by a nurse and a head of the department, and inviting the head of the department during non-working hours can create additional difficulties.

Of concern is the fact that the examinee was returned to the department from a multidisciplinary medical institution, breathing only with an oxygen pad. The patient's health condition remained unsatisfactory, this time their transfer to a specialized medical institution was delayed, the next evening, after re-going through the abovementioned procedures for obtaining a transfer permit.

Thus, the organization of in-patient treatment of persons with mental health problems in other medical centers remains a concern. Inadequate and untimely transportation of patients to specialized medical centers as needed can have serious consequences.

Therefore, it is necessary to:

- ✓ ***Define a clear mechanism for using the services of various medical professionals in psychiatric organizations;***
- ✓ ***Develop psychiatric medical assistance and mechanisms for proper organization of in-patient treatment and care of persons with mental health problems due to somatic disorder in other medical centers;***
- ✓ ***Establish a mandatory circle of narrow-field specialists in psychiatric organizations,***

ensuring a unified approach to service delivery;

- ✓ ***Ensure the treatment of persons with mental health problems due to somatic disorder by the organization's narrow-field specialists in the organizations providing psychiatric care and services;***
- ✓ ***Provide regular preventive care in psychiatric organizations and access to gynecological services as needed;***
- ✓ ***Properly organize dental care for persons with mental health problems in psychiatric organizations, including prosthetics.***
- ✓ ***Take steps to ensure that those passing in-patient examinations in the National Center for Mental Health Care have access to the services of narrow-field specialists in the said center or in other multidisciplinary medical centers in a timely manner.***

3.14. Management of food refusal cases in psychiatric organizations

During 2020, cases of refusal of food by persons with mental health problems were registered in psychiatric organizations, which were of individual-group nature.

During monitoring visits to psychiatric organizations, the Human Rights Defender's representatives constantly focus on ensuring the right to health of patients who refuse food. The purpose of this work is to ensure that patients who refuse food are treated exclusively on medical grounds.

Observations on this issue in 2020 have shown that medical approaches to persons who refuse food in monitored psychiatric organizations and implemented interventions that have been considered as inhuman treatment continue to be of great concern.

Thus, the patient, who was subjected to a security measure, refused to eat due to disagreement with the results of the forensic psychiatric examination in the 7th (special) department of the National Center for Mental Health Care. The hunger strike lasted 1 month and 15 days.

For the latter, 17 days after the announcement of the refusal to eat, force-feeding by probe was exercised on an almost daily basis. The mentioned intervention was carried out without a reasonable justification and without the informed consent of the person.

A study of a patient's medical history revealed that it hasn't been kept on a daily basis. According to the medical history records during the first 10 days of the hunger strike, the patient *"behaved calmly, led a normal life, communicated by phone with their mother, lawyer, and slept on time, enough."* Then, for the next 4 days, the patient voluntarily received water, sweet tea, and sweets. During the previous 5 days of starting force-feeding, they received infusion therapy, which included vitamins and psychotropic drugs, which, according to the relevant record, they *"did not resist"*. It should be noted that according to medical

records, during the entire hunger strike, the patient never agreed to medical interventions, including force-feeding. According to the patient, the head of the department informed about the necessity of the intervention (force-feeding), noting that it was *"required by law"* and *"it is the doctor's duty"*.

However, on the 17th day of the hunger strike, without any reasonable justification, a clear description of the patient's mental state or somatic condition, information about their exhaustion, life-threatening situation, they were forced to undergo tube feeding. According to the information provided, rhinosal probing was performed by psychiatrists on a daily basis, except on weekends. The composition of the prepared food (water-based mixture of condensed milk, 1 liter of eggs and butter) was decided by the medical personnel without the relevant guidelines and professional advice.

Moreover, in each case of force-feeding, it was accompanied by the application of physical and medical restraint to the patient, as the latter resisted. However, the relevant entries were made only once in the department's registers of "Recording of the Substantiation of the Decision on the Use or Termination of the Use of Physical and Drug-Induced Restraint Measures"

It should be noted that the patient continued to receive psychiatric treatment during that time. A study of the patient's medical history revealed that the therapist underwent a medical examination for the first time only 35 days after refusing food, which is unacceptable.

Insufficient laboratory and instrumental examinations were performed during the hunger strike to fully assess the patient's health (general blood biochemical and urine tests were performed once during the hunger strike).

The patient stopped the hunger strike after direct contact with their mother. No psychotropic drugs were used for treatment or sedation immediately after the hunger strike was over.

As for the organization of psychological work with a person who refuses food, it should be noted that according to the relevant records of the medical history, the psychologist examined the patient once a week or once every two weeks, noting that the negative effects of the hunger strike were explained to them. There are no records on the methods used in psychological work, its course and their effectiveness. The abovementioned entries in the patient's medical history did not reflect the adequate efforts of the medical personnel, as well as the clinical psychologists, to help to stop the protest. Especially, because these actions were conscious and purposeful, as the patient refused food, demanding to be relesed and to undergo a double forensic psychiatric examination.

Thus, summarizing the abovementioned, it should be emphasized that:

1) The person refused food by making a conscious decision, which was aimed at undergoing a double forensic medical examination and the person was able to periodically clearly present the abovementioned requirement.

2) There were no grounds to assume that the person's refusal to eat was due to illness or was a symptom of it.
3) The patient ate immediately in the days before the force-feeding, drank sweet tea, ate sweets, and was not actually on hunger strike.
4) The study of medical records did not substantiate that force-feeding had a therapeutic significance or its non-implementation could lead to a life-threatening condition.
5) When the patient was admitted to the department, he or she refused medical assistance, otherwise they did not give their written consent.
6) By examining the description of the medical history, it was recorded that the patient was not properly informed about the intervention performed on them (force-feeding, the process of its implementation, consequences), and did not give informed consent to carry it out.
7) According to the medical records, the patient's health condition was not comprehensively and completely assessed, in particular, the symptoms of the mental disorder were not properly recorded. The medical history did not describe any deterioration in health, including exhaustion, pathological changes in hemodynamic parameters (only blood pressure was recorded once a day, and body temperature), organ-system insufficiency, darkening of consciousness, difficulty in making decisions, etc.
8) The patient did not refuse vitamin therapy or infusion therapy during the refusal of food. The description of medical history did not contain sufficient medical justifications for their prescription, as well as the dynamics of the person's state of health during the refusal of food was not assessed.
9) According to the description of the medical history, during the stay in the National Center for Mental Health Care, the patient refused food for four days before the mentioned case, which was conditioned by the dispute with the patients smoking in the hospital room, because they are not a smoker.
10) For force- feeding, a food preparation was used, according to the relevant record of the medical history, on the basis of water, 1 liter mixture of condensed milk, egg, butter- the composition of which and doses are not fixed in any way in the description of their medical history and are not otherwise confirmed in the hospital guide of the provision of psychiatric care. Moreover, during the hunger strike, they were changed according to the doctor's instructions, reducing the portion of butter, increasing the portion of eggs to increase the protein mass, and the fat portion, to reduce it.
11) The probing of a person has led to a feeling of psychological pressure and fear. Thus, the doctor's duty to prevent the manifestation of inhuman treatment of a person was not observed.
12) In the National Center for Mental Health Care, there are no procedures for keeping persons who refuse food in general in psychiatric organizations.

13) It is obvious that the injection of psychotropic drugs during the refusal of food was aimed at facilitating the probing process in the National Center for Mental Health Care, which in no case can be considered acceptable, ads it has led to ill-treatment.

In connection with the abovementioned case, the Human Rights Defender made a decision on the existence of a violation of human rights and freedoms, stating that as a result of force-feeding of a person with mental health problems without the necessary medical justification, their physical and mental immunity was violated, which, in turn, violated the rights of not being subjected to inhuman treatment and health care.

Of particular concern is the fact that this is not the first case of force-feeding recorded by the National Preventive Mechanism in a psychiatric organization. In this regard, the 2019 *annual* report of the Human Rights Defender as the National Preventive Mechanism raised a number of problematic issues, in particular emphasizing the absence of standards and procedures for force-feeding[65].

In this regard, the inactivity of the health policy-making body is unacceptable, which, in the absence of clear regulations, leads to a recurrence of the abovementioned problematic cases.

The European Court of Human Rights has reflected on the said intervention on the issue of the existence of a compelling justification for the medical need of coercive implementation for recording a violation of the rights of a person through force-feeding. Moreover, according to the European Court, the procedural guarantees for making a decision on force-feeding must be observed. At the same time, the Court emphasized *that force- feeding should not exceed the minimum level of "cruelty" envisaged by Article 3 (prohibition of torture) of the European Convention for the Protection of Human Rights and Fundamental Freedoms[66].*

In the case of *''Nevmerzhitsky v. Ukraine''*, *he argued that there was no medical need for force- feeding because no relevant medical examinations and tests had been carried out and no other documents were sufficient to substantiate the intervention.* I**n the present case, the European Court of Human Rights has concluded that the applicant's force-feeding was not justified by "medical necessity", so it can only be assumed that the force- feeding was voluntary.**

At the same time, the European Court of Human Rights has emphasized t*hat even in this case, force-feeding was carried out in accordance with national legal requirements on force- feeding, and the use*

[65] See :https://ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpage, as of 31.03.2021, pages 96-100.

[66] See: Judgement made on the 5th of April, 2005 on the case of *''Nevmerzhitsky v. Ukraine''*, Application no. 54825/00, Para. 94.

of restraint and the installation of a special esophageal tube in conditions of resistance without medical necessity can lead to torture[67].

In the case of *''Ciorap v. Moldova'',* the European Court of Human Rights found that the decision to force-feeding of the applicant was not substantiated and in the absence of relevant medical evidence of a serious threat to the applicant's life or health, it could not be asserted that the authorities performed force-feeding to the applicant in the best interests of the latter,. which is in itself a problem under Article 3 of the European Convention[68].

In both cases, the European Court of Human Rights has found a violation of Article 3 of the European Convention.

In another case, *''Herczegfalvy v. Austria''*, in regard of force-feeding, if a person with a mental health problem refuses food, the European Court of Human Rights has noted *that The state of inadequacy and helplessness of persons in psychiatric hospitals requires great vigilance when considering compliance with the requirements of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Doctors decide which therapies, based on popular medical science rules, including the use of force if necessary, should be used to protect the physical and mental health of patients who are generally unable to make their own decisions, for whom doctors are responsible. Nevertheless, such patients are protected by Article 3 of the Convention (prohibition of torture), which does not allow any exceptions.* H**owever, the Court must ensure that the medical necessity has been substantiated[69].**

In the 2 March 2009 report[70] on the CPT's targeted (*ad hoc*) visit to Spain, it addressed the issue of medical substantiation for force-feeding of a person on hunger strike and its proportionality, among other circumstances, using the following criteria:

1) The degree of a threat to a person's life;
2) Refusal of the offered medical assistance and attitude of the person towards force-feeding;
3) Existence of the conclusion of the commission examination in connection with the threat to life, the necessity of applying involuntary treatment;
4) The possibility of confirming the medical necessity of force-feeding by independent doctors;

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[67] See: Judgement made on the 5th of April, 2005 on the case of *''Nevmerzhitsky v. Ukraine''*, Application no. 54825/00, Para.-s 95-97.

[68] See: Judgement made on the 19th of June, 2007 on the case of *''Ciorap v. Moldova''*, Application no. 12066/02, Para.-s 81, 83.

[69] See: Judgement made on the 24th of September, 1992 on the case of *''Herczegfalvy v. Austria'',* Application no. 10533/83, Para. 2.

[70] See: https://rm.coe.int/1680697ea4 webpage, as of 31.03.2021.

5) In case of availability of a relevant medical conclusion, preliminary and further judicial control over the substantiation and proportionality of force-feeding, availability of legal protection mechanisms;
6) The use of restraint measures to organize force- feeding and its proportionality;
7) Assessment of special conditions for force-feeding, professional competence, methods of its application, possibility of providing emergency medical assistance and other circumstances.

Summarizing the circumstances of cases of force-feeding, legal analysis in connection with them, as well as national and international standards, taking into account the practical problems of hunger strikes in psychiatric organizations, which may lead to human rights violations, the Human Rights Defender as the National Preventive Mechanism considers it necessary to emphasize the following:

1) In case of refusal of food by a person kept in a psychiatric organization for a definite or indefinite period of time, the question should be assessed whether the latter has consciously or voluntarily refused food as an expression of protest, or refusal to eat or refuse food is a symptom of mental disorder, or that is in any way related to the mental health problem, which must be clearly stated in the person's medical records.
2) The person must be under constant medical supervision during the period of hunger strike or refusal of food; it is necessary to continuously carry out multidisciplinary dynamic control of a person's health condition by performing the necessary laboratory-instrumental examinations.
3) The person who has declared a hunger strike or refused food must be informed in an understandable language of the risks of further deterioration of health due to refusal of food (or) water and the steps that must be taken in order not to worsen the health of the latter.
4) During a hunger strike, if a person is able to make an conscious decision, the medical personnel should get the consent or the circumstances of its absence on the provision of medical assistance and services (including artificial feeding) in case of the darkening or loss of a person’s consciousness or in case of coma as a result of refusal to take food (or) water of a person on hunger strike and make a record it in their medical documents.
5) The person who has declared a hunger strike should be provided with the necessary psychological support, making a rcord about this in the medical documents of a person.
6) The implementation of a hunger strike should not lead to a violation of the procedure established in a psychiatric organization, as well as in another place of deprivation of liberty, to cause unfavorable consequences for the person.
7) Taking into account the vulnerability of persons kept in psychiatric organizations, as well as the difficulties of self-defense, the person on hunger strike should be offered the right to receive legal aid, as well as inform the lawyer (if the person on hunger strike has a lawyer), their close relatives. or another person chosen by them.

8) The issue of force-feeding should be considered only in relation to a person who refuses food due to mental health problems, as an extreme measure, first of all referring to the existence of a real threat to the life of the person who refuses food.
9) Force-feeding, as an extreme measure, can be used exclusively for therapeutic purposes.
10) The existence of a real threat to life, the need for force-feeding due to it, as the only solution with no alternative, should be discussed by a commission (if possible approved by independent doctors), as it should be properly substantiated and registered in the person's medical records.
11) Preliminary, periodic monitoring of the validity and proportionality of force-feeding should be established by an independent body (international experience shows that the authority to exercise the said control is effective to retain for the court).
12) Force-feeding must be carried out by a specialist (s) with appropriate medical specialization or training, all necessary conditions must be provided: with the possibility of resuscitation providing urgent medical assistance.
13) Medical assistance and service should be provided in conditions that do not degrade human dignity, while respecting the basic rights and freedoms of the person on hunger strike.

Therefore, force-feeding of a person without registering a life-threatening danger, absence of appropriate guidelines, and lack of professional experience in the field can lead to ill-treatment.

Taking into account the abovementioned, it is necessary to:

- ✓ ***Immediately develop a guideline for persons with mental health problems who refuse food in psychiatric organizations, which will set clear criteria in which cases, which indicators of health and in each case what kind of professional staff should be used for artificial or force-feeding, and what control should be established for patients refusing food;***
- ✓ ***Carry out force-feeding of persons with mental health problems who refuse food in psychiatric organizations for therapeutic purposes only, in extreme cases, urgently needed medical intervention with a clear decision made by a specialized comprehensive examination, making detailed entries in the patient's medical history;***
- ✓ ***In case of any medical intervention, including artificial or force-feeding, obtain the informed consent of the person, record their will and the patient's ability to make an informed decision at that time.***

3.15. Problems with making records on injuries and reporting about them to law enforcement agencies

Persons with mental health problems can sometimes receive physical injuries for a variety of reasons, including physical or psychological abuse, while receiving medical assistance at a psychiatric organization. According to the information provided by the RA Prosecutor General, 25 out of 204 bodily

injuries recorded in places of deprivation of liberty in 2020 were recorded in psychiatric organizations, which accounts for about 12% of cases. Although the number of bodily injuries recorded in places of deprivation of liberty decreased in 2019 (32 out of 210 bodily injuries were reported to psychiatric organizations, which accounted for about 15% of cases), they are still a concern.

According to the information provided, a criminal case has been initiated in connection with 2 of the 25 cases registered in 2020 (one was later terminated, the other was suspended).

It should be emphasized that according to the information provided by the RA Prosecutor General's Office, in 2020, 4 cases of self-injury were registered in psychiatric organizations. However, according to the information provided by the RA Ministry of Health, only in the National Center for Mental Health Care in 2020 14 cases of self-injury were registered. **This indicates that the law enforcement agencies are not properly informed about the cases of self-injury registered in psychiatric organizations, which is problematic.**

At the same time, according to the information provided by the Ministry of Health, no cases of self-injury were registered in other psychiatric organizations in 2020, which is a reason for concern, especially considering the abovementioned practice.

At the same time, it should be noted that in contrast to 2019, the number of self-injury cases in psychiatric organizations has increased. Thus, in 2019, 1 case of self-injury was recorded in psychiatric organizations.

Proper recording of injuries of patients in psychiatric organizations and timely notification to law enforcement agencies is of particular importance for the rights and safety of persons with mental health problems. Effective organization of the activities in this regard requires common practice.

The Human Rights Defender has repeatedly referred to this issue in their reports, but a unified procedure for registering injuries in psychiatric organizations and informing the law enforcement agencies has not been established by the competent bodies, and the organizations continue to carry it out at their own discretion.

Paragraph 2 (3) of Article 5 of the RA Law ‘’On Psychiatric Care and Services’’ stipulates that *in case of detection of bodily injuries or alleged violence against persons in psychiatric organizations, it should be immediately notified to the law enforcement agencies.*

According to the information provided by the Ministry of Health, according to the RA Government Decree No. 65- Ն of 21 January 2021 (the Decree will enter into the force on the 1st of April, 2021), the medical assistance providers are obliged to submit a report to the Police of the Republic of Armenia about the patient (as well as about the corpse) transferred to the medical institution in the cases provided for in paragraph 13 of part 1 of Article 28 of the RA Law ‘’On Medical Asistance and Services to the

Population'', i.e, *if the patient transferred to a medical institution is unconscious or has a head injury or concussion or a 3rd or 4th degree burn or stab wound or penetrating wound or a gunshot wound or polytrauma or poisoning, or the information provided suggests: that the damage to the patient's health or life is the result of violent or unlawful acts or self-injury or a traffic accident, as well as in case of a corpse being transferred to a medical institution.*

The abovementioned act regulates only the procedure of making records about the injuries of admitted patients, but in psychiatric organizations there are no legal procedures for informing the law enforcement agencies about the injuries of the patients receiving care or maintaining records about it.

Monitoring activities in psychiatric organizations has shown that physical injuries found in patients are not recorded on a common basis in different institutions, and law enforcement is notified in different ways, in written or oral forms, in some cases due to the nature of the injury.

Thus, in case of finding an injury, the National Center for Mental Health Care made an entry of it in the "Patient Escape-Injury Register" kept in the reception of the mentioned organization, in the "Police Call Log", which was filled in by the on-duty doctor. In the mentioned registers, both the body injuries of the admitted persons of the mentioned organization, as well as the injuries caused to the patients during the duty were recorded. The injuries received by the patients in the departments of the National Center of Mental Health Care were also recorded in the register of "On-Duty Nurse Report" of that department. In addition, injuries to persons with mental health problems are recorded in their medical history descriptions.

It should be emphasized that according to paragraph 1 of the patient management procedure in the reception of the organizations providing in-patient medical assistance and services envisaged by Annex 1 of the Order No. 44-Ն "On Approving the Procedure of Patient Care in the Reception of the Medical Organization Providing In-patient Medical Assistance and Services'' of the Minister of Health of the Republic of Armenia of 18 October 2019, *it should be informed about the bringing patients to the medical center who are in unconscious state, with gunshot wounds, suspected stab wounds, injuries, fractures, burns, frostbite, signs of violence, poisoning (alcohol, animal bites, medications-chemicals), Injured as a result of a traffic accident to the Territorial Department of the RA Police in accordance with the procedure established by the on-duty medical personnel of the emergency medical assistance and admission department of the organization, as well as about cases of transporting a corpse to a medical institution.* Annex 2 of the same order approves the format of ''Register of Messages Sent to Law Enforcement Agencies" to record the abovementioned messages.

The abovementioned act also regulates only the procedure of recording the injuries of admitted patients, but there are no legal procedures in psychiatric organizations for informing the law enforcement agencies about the injuries received by patients receiving care or maintaining records of them.

During visits to various psychiatric organizations, it has been reported that each has its own procedure developed or applied in practice.

Thus, in order to register the injuries received in the National Center for Mental Health Care and to inform the law enforcement agencies, the directorate has developed a relevant internal legal act, which, however, does not reflect the safety of patients in psychiatric organizations, as well as torture, other cruel, inhuman or degrading treatment, the real picture of the work aimed at its effective examination.

The monitoring showed that the information about bodily injuries of the patients in the National Center for Mental Health Care were not properly recorded, and the law enforcement agencies were informed about orally- via telephone.

This indicates a discretionary approach to informing law enforcement about the injuries and absence of clear criteria.

The study also found that records about injuries of the patients in the National Center for Mental Health Care were without a description of injuries and without a detailed professional description of how they were received.

For example, a complete picture of the results of an objective medical examination is not recorded, the exact anatomical location, colour, surface and other criteria describing the injury are not described. The records also lack a doctor's conclusion with an objective description of the injury and a combination of the patient's statement of the cause of the injury. At the same time, injuries are not recorded in the charts and are not photographed. The absence of the abovementioned criteria of the recording does not follow from the main purposes and requirements of the inspection.

In this regard, it should be noted that in paragraph 115 of the 2017 Report on Latvia, the CPT noted that the *involuntary admission of persons with severe mental health problems to a psychiatric organization could be at high risk, as it often involves police officers. Patients are sometimes taken to a psychiatric establishment with hand and foot chains and accompanied by the police. The CPT considers that accurate and timely recording and reporting of injuries that a patient may show upon admission to a psychiatric establishment is a guarantee in terms of preventing possible ill-treatment; it should be performed promptly and immediately by a doctor. (...) Examinations often seem rather superficial (in particular, limited to radiographs measurement of the patient's blood pressure and body temperature), and injuries are not always recorded (including, in one case, a gunshot wound). Moreover, it turned out that the patient's explanations about the origin of the injuries recorded during the admission were not clarified or registered. Therefore, the medical personnel does not try to draw conclusions about the patient's explanations of the ratio of objective medical results. Of particular concern to the CPT is the fact that, according to the hospital management, injuries sustained during admission and allegations of*

police misconduct are reported as a matter of policy to the local police and not to the competent prosecutor[71].

At the same time, UN 2004 Protocol[72] (hereinafter referred to as the Protocol) contains important criteria for the effective investigation of cases of torture and ill-treatment. It provides guidelines for submitting information obtained through the authorities to allegations of torture, other forms of ill-treatment, medical examination of victims.

Paragraph 104 of the Protocol stipulates that *a medical examination should be conducted regardless of the period elapsed after the alleged torture, but it is very important to conduct it immediately until the obvious signs of torture have disappeared*.

In case of torture and other forms of ill-treatment, the role of the medical examination record may play a significant role in their detection. According to Article 83 of the Protocol, *the medical examiner must immediately draw up a clear written record. It should include at least the following:*

1. *Question and answer circumstances with the person undergoing the medical examination (name of the person under medical examination, names of the persons present at the medical examination, their connection with the person under medical examination, exact day, time, place of the examination, etc.);*
2. *Background (information provided by the person undergoing medical examination, methods of alleged torture or ill-treatment, time, all complaints of physical or mental health);*
3. *Physical-psychological examination (record of physical-psychological symptoms found as a result of clinical examination, including diagnostic examination; if possible, colour photographs of all injuries);*
4. *Conclusion (comment on the possible link between physical and psychological symptoms and other possible cases of torture or ill-treatment, indications for any necessary medical and psychological assistance or further examination);*
5. *Information on the record writer (data of the person or persons who conducted the medical examination, signature).*

The protocol sets out standards for the medical examination of victims of torture and ill-treatment. According to paragraph 175 *the examiner must indicate all the relevant positive-negative data, recording the location of all injuries using a schematic image of a person, their nature.* For this purpose, the Annex to the Protocol provides for special papers containing anatomical diagrams of a man and a woman with appropriate instructions for making notes.

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[71] See: https://rm.coe.int/pdf/168072ce4f webpage, as of 31.03.2021.

[72] See the UN Protocol of 2004. A Handbook for Documenting Torture, Other Cruel, Inhuman or Degrading Treatment or Punishment at http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf webpage, as of 31.03.2021.

These are also of preventive importance. The use of the documents and guidelines contained in the Protocol by independent medical professionals will significantly contribute to both the effective investigation, detection and prevention of cases of torture and ill-treatment.

The European Court of Human Rights has also used the principles of the Protocol's guidelines in assessing cases of torture in the context of Article 3 of the European Convention in assessing the legality of States' actions[73].

The principles of recording injuries received in psychiatric organizations as a result of the absence of a unified procedure developed by a competent state body and informing law enforcement agencies are different and do not reflect the true picture of patient safety in psychiatric organizations, as well as the prevention of torture, other cruel, inhuman or degrading treatment or punishment, and its effective investigation.

Therefore, it is necessary to:

- ✓ ***Develop documents for conducting medical examinations related to torture, inhuman or degrading treatment or treatment in psychiatric organizations, as well as guidelines for completing the latter;***
- ✓ ***Properly record in the documents in the relevant documents about the injuries of patients admitted to psychiatric organizations and receiving treatment or care there, ensuring their professional description;***
- ✓ ***Implement psychiatric medical assistance and establish treatment in service organizations and proper registration of injuries of patients receiving care and informing law enforcement agencies about it;***
- ✓ ***Carry out trainings of medical personnel in the organizations providing psychiatric medical assistance and services about proper registration of injured patients and informing law enforcement agencies.***

3.16. Non-medication-assisted treatment and psychological help

Combining medication-assisted treatment with various therapeutic measures, including psychotherapy, work, dance, and other therapies, plays a key role in ensuring the effectiveness of treatment for persons with mental health problems, maintaining social ties, strengthening and developing positive social behaviour and self-expression in the society.

[73] See: Judgement made on the 3rd of June, 2007 on the case of *''Bati and others v. Turkey''*, Application no. 33097/96 and no. 57834/00**,** Para. 100; Judgement made on the 2nd of March, 2009 on the case of *''Böke and Kandemir v. Turkey''*, Application no. 71912/01, 26968/02, 36397/03, Para. 48.

Studies conducted during monitoring visits to psychiatric organizations show that, in addition to medication-assisted treatment, alternative therapies are poorly organized or almost non-existent.

Failure to use alternative therapies may adversely affect the effectiveness of psychiatric care and reintegration of persons with mental health problems.

In its 2016 Report on Armenia, the CPT noted *that psychiatric organizations rely almost entirely on pharmacotherapy to restrain the spread of illnesses*[74].

Psychiatric organizations do not have the required number of narrowly qualified professional psychologists, art therapy specialists who will ensure the use of non-medical methods. That's why their work efficiency remains low. Thus, in 2020, psychologists worked in some psychiatric organizations, but the psychological service was overloaded. For example, at the time of the visit, 2 psychologists worked for 406 patients in the National Center for Mental Health, and 1 psychologist worked in the Armash Health Center for 85 patients. It is obvious that for such a large number of patients the presence of 1-2 psychologists is extremely insufficient, and their work is overloaded.

According to the Ministry of Health, with the exception of the National Center for Mental Health Care and Sevan Mental Health Center, psychologists in other psychiatric organizations work part time or full-time regardless of bed occupancy.

In 2020, as a result of private interviews and studies in the National Center for Mental Health Care, it was stated that before the novel Coronavirus (COVID-19) pandemic, psychologists were more actively involved in therapeutic and diagnostic work with patients, conducting individual counseling, psychotherapy, group psychological work, etc.

It is worrisome that due to the novel Coronavirus (COVID-19) pandemic, the abovementioned activities have been stopped, no awareness or other special activities have been carried out, the number of individual visits has been reduced to a minimum, and psychologists have been mainly engaged in examining conscripts. Art therapy did not work in the abovementioned conditions.

The issue of documenting psychological work is also problematic. During the monitoring visit to the National Center for Mental Health Care, it was recorded that psychologists do not maintain visit records, and there are no mechanisms to record their progress and results. In general, the documentation and work procedures of psychological work did not have a clear institutional regulation.

As a result of the study of the register kept by a psychologist in the Armash Health Center, it was recorded that the psychologist's works are of both group and individual nature. The study of the register revealed

[74] See: https://rm.coe.int/16806bf46f webpage, as of 31.03.2021, paragraph 124.

that the psychologist chooses a topic for each month and conducts group conversations on that topic. The psychologist does not maintain personal visit records, and the notes of meetings are recorded in medical histories.

During the monitoring visits to psychiatric organizations, it was also recorded that the absence of rooms for psychological support severely limits the possibility of psychological professional and post-follow-up work, and does not allow confidentiality. In addition, psychological work with persons with mental health problems requires special conditions (furniture, layout, interior decoration, etc.), which are important therapeutic factors in improving the patient's mental state.

It should be noted that at the time of the visit, both the National Center for Mental Health Care and the Armash Health Center were not staffed with social workers, which can significantly facilitate the work of psychologists.

It remains a matter of concern that some psychiatric organizations do not have a position of psychologist, for example, at the Syunik Regional Psychiatric-Neurological Dispensary, and the position of an adjunct therapy organizer remains vacant.

There is no procedure for organizing psychological work in psychiatric organizations. Psychologists do not make scheduled visits to departments, do not have a clear list of responsibilities, there is no formal mechanism for cooperation with psychiatrists, there are no norms regulating the scope of work of a psychiatrist, psychologist or psychotherapist, the patient's complex treatment strategy does not include psychological and social intervention.

The activity of psychologists is not supervised professionally, it has no planning and clear accountability.

The forms filled out by psychologists working in psychiatric organizations are not united, they are not approved by the RA Ministry of Health or psychiatric organizations. It is up to each psychologist to decide which paper, how, how often and for what purpose to fill out. Psychologists in the psychiatric organizations under monitoring have made some entries in medical histories.

Psychologists' records in psychiatric organizations generally do not reflect their work, its application, or purpose. There are no individual cards for patients, where information on the dynamics of psychological work would be collected.

Therefore, there is a need to develop common mechanisms from the perspective of the provision of the unity of recordings on the provision of psychological assistance, its course and results.

Psychiatric organizations haven’t developed psychological service response procedures, methodology in case of self-injury, suicide attempts.

There is practically no organized cooperation between the "medical personnel" and the psychological service.

Psychologists generally do not participate in the development of the patient's treatment strategy, they do not have any opportunity to have influence on it.

Taking into account the abovementioned, it is necessary to:

- ✓ ***Provide positions of psychologists with appropriate narrow specialization or appropriate training in psychiatric organizations;***
- ✓ ***Increase the number of psychologists with appropriate narrow specialization or appropriate training in psychiatric organizations according to the proportion of the bed fund;***
- ✓ ***Provide rooms for psychologists to organize work (including group work);***
- ✓ ***Organize relevant professional trainings for psychologists;***
- ✓ ***Include psychological and psychosocial intervention in the treatment strategy of persons with mental health problems, develop a blank system of cooperation for psychiatrist-psychologist-social workers and other narrow-field specialists;***
- ✓ ***Develop a mechanism for recording psychological work with persons with mental health problems;***
- ✓ ***Introduce psychotherapy methods and programme approval procedures, combining them with medication-assisted treatment;***
- ✓ ***Organize alternative therapy for persons with mental health problems in psychiatric organizations, make them available for treatment in psychiatric organizations and for all persons receiving care.***

3.17. Overcrowding and provision of personal space

The problem of overcrowding in psychiatric organizations has been raised for years in the reports of the Human Rights Defender as the National Preventive Mechanism. Lack of personal space has a negative effect on persons with mental health problems, as a result of which they find themselves in an unacceptable and unfavorable environment for their health.

The problem of overcrowding in psychiatric organizations is recorded both in the AD hoc public report of the Human Rights Defender "On Ensuring the Rights of Persons with Mental Health Problems in

Psychiatric Organizations"[75] and in the Annual reports on the activities of the National Preventive Mechanism in 2018-2019[76].

According to the information provided by the RA Ministry of Health, as of 31 December, 2020, the number of patients in psychiatric organizations was as follows:

Psychiatric Organization	Bed Fund	Number of Patients
National Center for Mental Health Care	390	369
"Avan" Mental Health Center	120	102
Sevan Mental Health Center	423	418
Armash Health Center	70	86
Syunik Regional Psychiatric-Neurological Dispensary	70	65
Gyumri Mental Health Center	55	55
Lori Regional Neuropsychiatric Dispensary	35	17

According to the statistics, the number of patients kept in the Armash Health Center is about 23% more than the bed fund. The mentioned problem was also registered during the monitoring visit to Armash Health Center, which is extremely worrisome.

Overcrowding was also recorded at the time of the visit to the National Center for Mental Health Care (August 2020). Thus, 406 persons received treatment and care in the mentioned psychiatric organization, but the bed fund was intended for 390 persons. The hospital rooms of the departments were mainly designed for 8-13 patients, their area was 45-55 square meters. Although 49 persons were kept in the Special Coercive Treatment Department (7th department) at the time of the visit, 48 men and 1 woman

[75] See: https://ombuds.am/images/files/1a342c6fb902f57c52e8495d183e3095.pdf webpage, as of 31.03.2021, pages 68-71.

[76] See: https://ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf and https://www.ombuds.am/images/files/f6bccc6db65258e28be6f3e093987a15.pdf webpages, as of 31.03.2021, pages 88-92 and 110-114.

(not exceeding the intended bed fund of 53), the amount of living space available to patients was still a concern. The area of the 1st and 2nd hospital rooms was about 45.5-46.5 square meters, where 10 beds were placed during the visit. As a result, the personal space available to each patient was about 4.6 square meters, **which cannot be considered sufficient**. It is worrisome that one person with mental health problems was kept in one of the hospital rooms in such an overcrowded environment. A similar problem was registered during a previous visit to the National Center for Mental Health Care.

Almost all the hospital rooms of the male and female wards of the Armash Health Center were overcrowded, the beds were tightly arranged and packed. Thus, in the 31.7 square meter hospital room of the male ward, there were 11 beds (2.9 square meters of personal space per person), and in the 27.6 square meter hospital room, 9 beds (3.1 square meters of personal space per person). Other wards with an area of 15-17.4 square meters of the mentioned psychiatric organization were designed for 5 persons with mental health problems (3 to 3.48 square meters per person). At the same time, it should be noted that in these conditions there were 2 free hospital rooms in the psychiatric organization.

The problem of providing patients with personal space is present in almost all psychiatric organizations. The issue is more problematic in terms of the prevention of spread of the novel Coronavirus (COVID-19).

The CPT also addressed the issue of overcrowding and the tight arrangement of beds. In the 2016 Report on Macedonia, the CPT recorded *that eight persons with mental health problems were being held in a 36-square-meter room in a psychiatric establishment.* In this regard, the CPT called on the Macedonian authorities *to make efforts to improve the living conditions of persons held in psychiatric establishments, in particular to increase the living space available to anyone with a mental health problem (for example, at least 6 square meters per person in multi-habitable rooms)*[77].

According to the CPT's 2017 Report on Latvia, *a study conducted at a psychiatric organization found that **8 to 10 persons with mental health problems** were kept in one of the hospital rooms with beds placed too close to each other. As a result, persons kept in the hospital room had limited living space and were denied access to have personal space.* The CPT emphasized that *the existence of such conditions could have a negative impact on persons kept there, violating their **right of having personal space**. The CPT called for steps to be taken to gradually transform large rooms in psychiatric organizations into smaller ones*[78].

Regarding the overcrowding of psychiatric organizations, the Human Rights Defender has repeatedly stated that when determining the bed fund in psychiatric organizations, the criterion

[77] See: https://rm.coe.int/16806974f0 webpage, as of 31.03.2021, paragraphs 142-145.

[78] See: https://rm.coe.int/pdf/168072ce4f webpage, as of 31.03.2021, paragraph 108.

should be based on the personal space provided for each patient, and not on the possibility of placing beds in the hospital room or indicator of their occupancy.

Based on the abovementioned, it is necessary to:

- ✓ ***Review the number of beds in each psychiatric organization, providing individual living space for each person with mental health problems;***
- ✓ ***Reduce the occupancy rate in rooms by providing an individual living space for persons with mental health problems;***
- ✓ ***Take measures to gradually transform large hospital rooms of psychiatric organizations into smaller ones;***
- ✓ ***Eliminate beds that are too tight or too close together obstructing the movement of patients.***

3.18. Care of persons with mobility impairments

Issues related to ensuring the rights of persons with mobility impairments in psychiatric organizations have been raised by the Human Rights Defender. Adapted conditions are necessary for the normal life of persons with special needs, which causes serious problems in the current building conditions of psychiatric organizations.

Failure to provide a comfortable environment in psychiatric organizations has a negative impact on patients' overall well-being, physical health, and mental well-being.

The National Preventive Mechanism has consistently stated that although psychiatric dispensaries are mainly located on the first floors of psychiatric organizations (''Avan'' Mental Health Center, Gyumri Mental Health Center, Syunik Regional Psychiatric-Neurological Dispensary), visits by patients with mobility impairments are not unimpeded. In this context, it is important to emphasize the presence of building conditions, in particular ramps at the entrances of organizations.

The presence of ramps is a great necessity for persons with mobility impairments to enter the psychiatric organization without hindrance. The abovementioned environment, which is not adapted to the special needs of persons with mobility impairments, leads to a discriminative approach to them, makes the services provided by the psychiatric organization inaccessible to the latter.

Over the years, monitoring visits by the National Preventive Mechanism and studies have identified a number of issues related to the adaptation of toilets for patients with mobility impairments in psychiatric hospital rooms, access to toilets on their own.

It should be noted that compared to previous years, there is a positive change, in particular, in some psychiatric organizations the toilets have been repaired, toilet bowls have been installed. However, the absence of the necessary facilities for patients with mobility impairments in the hospital rooms and toilets, such as special supports, handles, and braces, continues to be a problem in hospital rooms of psychiatric organizations.

There are no appropriate adjustments to the stairs connecting the floors of psychiatric organizations, which, in the absence of elevators (Syunik Regional Psychiatric-Neurological Dispensary, Gyumri Mental Health Center, Armash Health Center) or along with malfunctioning, restricts the movement of patients with mobility impairments out of the hospital room, including the opportunity to enjoy daily outdoor exercises on their own.

The Ministry of Health of the Republic of Armenia stated in its official explanations that the malfunctioning of the mechanical part of the elevator of the "Avan" Mental Health Center has been eliminated, but the elevator is not working yet. According to the RA Ministry of Health, in case of availability of appropriate financial means, an elevator is planned to be installed.

During the 2020 monitoring, it was recorded that female patients with mobility impairments were kept on the second floor of the Armash Health Center, which was also recorded during previous visits to the mentioned psychiatric organization.

The staircase leading to the second floor of the Armash Health Center is not adopted for moving with wheelchairs or otherwise, making it impossible for persons with mobility impairments to use the canteen, the TV to go for an outdoor exercise, and so on. The latter receive food in hospital rooms, where there are no necessary conditions for eating (tables, chairs). Persons with mental health problems have to eat in bed.

During private interviews with the Human Rights Defender's representatives, patients noted that women with mobility impairments spend most of the day in the hospital rooms, lying in bed.

In psychiatric organizations, such conditions lead to discriminative approach towards persons with mobility impairments.

Therefore, taking into account the abovementioned problems, it is necessary to:

- ✓ ***Ensure the adaptation of the building conditions of psychiatric organizations and the physical environment to the needs of persons with mobility impairments;***
- ✓ ***Provide adequate access for persons with mobility impairments to the toilet, dining room and outdoor exercises;***
- ✓ ***Continue to provide ramps and other special facilities to the entrances of psychiatric organizations and other places to move in the building.***

3.19. Living conditions

The *annual* reports of the Human Rights Defender, as the National Preventive Mechanism, regularly refer to the living conditions of persons with mental health problems in psychiatric organizations, which are a necessary component of their activities. Inadequate conditions have a negative impact on the health of patients, including their mental state.

It should be noted that despite the positive developments in some organizations, a number of problems continued to be recorded in the 2020 study.

Problems related to living conditions in psychiatric organizations can be conditionally classified into the following groups:

1. *Conditions of a building and furnishing;*
2. *Providing with sideboards and wardrobes;*
3. *Bedding and personal hygiene items;*
4. *Toilets and sanitary and hygienic conditions;*
5. *Availability of drinking water;*
6. *Men-women combined departments;*
7. *Smoking rooms.*

1. In all the psychiatric organizations studied during 2020, there was a need for improvement and renovation of building conditions. Thus, in the departments of the National Center for Mental Health Care, the floors of the hospital rooms were made with concrete and covered with worn linoleum, and in some hospital rooms there was no linoleum. The plaster of the ceiling and the walls of the corridors of the departments and hospital rooms were spilled in some places. The hospital rooms were not equipped with doors (except for hospital rooms 6 and 7, where there were latticed doors). The curtains of the hospital rooms, examined during the monitoring visit, were mostly absent. At the same time, the hospital rooms were faceless, with no pictures or other personal items (except for clothes and household items).

In this regard, in paragraph 109 of the 2017 Report on Latvia, the CPT emphasized that *a number of hospital rooms in the psychiatric organization did not have curtains, thus restricting the privacy of patients life, and that some hospital rooms were modestly furnished and generally not personalized.* The CPT proposed that steps be taken to address these disadvantages[79].

During the monitoring visits in 2020, the Armash Health Center was in need of renovation.

[79] See: https://rm.coe.int/pdf/168072ce4f webpage, as of 31.03.2021.

It should be noted that after the previous visit of the Human Rights Defender's representatives, construction and renovation works were carried out in the Armash Health Center, which is welcome. The renovation of some of the first floor hospital rooms of the psychiatric organization is also welcome.

However, during the monitoring visit, renovation problems were recorded in the Armash Health Center. Thus, the concrete floors of the hospital rooms were covered with carpets, and the old aluminum windows were covered with polyethylene on the inside to maintain the temperature in the hospital rooms. The plaster on the walls of the hospital rooms was spilled, cracks were visible on the walls.

During the monitoring, it was recorded that the beds of almost all hospital rooms of the National Center for Mental Health Care were made of iron and worn out. In contrast, most of the old beds in the Armash Health Center have been replaced with new ones. However, worn-out beds are still in use there.

The old bed fund in psychiatric organizations urgently needs to be replaced with new ones.

Therefore, it is necessary to:

- ✓ ***Carry out renovation and improvement works in all psychiatric organizations, providing proper conditions for persons with mental health problems;***
- ✓ ***Update the bed fund by replacing worn-out beds with new ones.***

2. From the point of view of the private life of persons kept in psychiatric organizations, it is very important to provide them with personal space where they can keep their personal belongings. Over the years, it has been recorded that the number of sideboards in psychiatric organizations was insufficient, and the existing sideboards and wardrobes were worn out or broken.

Thus, in the departments of the National Center for Mental Health Care and Armash Health Center there is a severe shortage of wardrobes, as a result of which patients keep their personal belongings under the bed, in bags, in bed, on the windowsill or in the corners of the room.

Thus, in some hospital rooms of Armash Health Center, where there were 5 beds, 3-4 sideboards were installed, in the hospital rooms with 11 beds of the male wards, 6 sideboards, and in the hospital room with 9 beds - 4 sideboards. Worn-out sideboards with broken doors were recorded, and in a number of hospital rooms the sideboards were placed one on top of the other.

The issue of insufficiency of sideboards has been raised by the Human Rights Defender since 2017, but the issue remains unresolved.

The CPT also addressed the issue in its 2016 Report on Armenia, noting that *personal space was not provided in the male and female wards of the Gyumri Mental Health Center, in particular, persons with*

mental health problems did not have lockable personal space. ***The CPT called on the Armenian authorities to take the necessary measures to provide all persons with mental health problems held at the Gyumri Mental Health Center with a lockable personal space where they can store their belongings[80].***

Therefore, it is important to provide a personal lockable space for all persons with mental health problems.

3. During the monitoring conducted in psychiatric organizations, problems related to linen and bedding provided to patients were recorded. In particular, a secluded person with a mental health problem did not have underwear and the bedding was dirty in a room for physical restraint in one of the departments of the National Center for Mental Health Care. The mentioned bedding was replaced only after the intervention of the Defender's representative. At the same time, the National Center for Mental Health Care has stored many new bedding items in their stock.

Representatives of the National Preventive Mechanism also examined the volume of personal hygiene items provided to persons with mental health problems.

Thus, despite the large number of women's hygiene items available in the pharmacy of the Armash Health Center, during private interviews with the Defender's representatives, the patients expressed dissatisfaction with the insufficient supply of them.

Therefore, it is necessary to:

- ✓ ***Provide persons with mental health problems with proper bedding and linen;***
- ✓ ***Provide women with mental health problems with adequate female hygiene items.***

4. Insufficient sanitary and hygienic conditions have been recorded in psychiatric organizations. In particular, during a visit to the Armash Health Center, it was recorded that male patients used three Asian-style toilets located in the psychiatric organization's outdoor exercise yard, which may cause additional difficulties in maintaining the mobility and balance of persons with mental health problems while taking psychotropic drugs. There was no sink, trash can, toilet paper in the mentioned toilets there was no artificial lighting. As during the previous visit, in 2020, the sanitary and hygienic condition of the toilets located in the outdoor exercise yard was very unsatisfactory, there was a stench. **The operation of the mentioned toilets in the described conditions is not allowed.** As for the toilets inside the building of the psychiatric organization, they were also in poor sanitary condition.

The general hospital rooms with 4 beds in the seclusion department of the National Center for Mental Health Care was in poor condition, in particular, the lighting in the room and the sanitary and hygienic

[80] See: https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806bf46f webpage, as of 31.03.2021.

conditions were inadequate. The conditions of the toilets in the 6th and 7th departments of the psychiatric organization continued to be very unsatisfactory. The plaster of the walls and ceiling was spilled, the floor was torn down in some places. In the 7th department, there were only Asian-style toilets for men without partitions. It should be noted that the drinking water tap is installed in the mentioned toilets. The toilet and bathroom of the 6th department was combined without a partition. Here, too, the only drinking water tap was found in the toilet.

Therefore, it is necessary to:

- ✓ ***Carry out necessary renovations and cleaning works in the toilets of psychiatric organizations;***
- ✓ ***Adapt toilets to the needs of persons with mental health problems and furnish with toilet bowls.***

5. It is also important to provide persons with mental health problems with permanent access to drinking water. The Human Right Defender's reports have repeatedly raised the issue of the absence of access to running drinking water for persons with mental health problems in 7th department of the National Center for Mental Health Care (hospital rooms are closed with lattice-doors, and patients do not have free access to running water). During the visit, all patients in the department had separate plastic bottles to hold drinking water. At the request of persons with mental health problems, if they needed to use running water, the hospital door would be opened if the toilet was free. According to the information provided to the representatives of the National Preventive Mechanism, the secluded patient of the 7th department was forbidden to leave the hospital room at night, to use running water. Moreover, during private interviews with persons with mental health problems, it turned out that the secluded patient was "instructed" not to drink water in the evening. In fact water was provided not according to the patient's needs, but "on the doctor's instructions' '. **This fact is very worrisome and inadmissible.**

Thus, it is necessary to provide all persons with mental health problems with constant access to drinking water.

A problem with access to water was also recorded in the Armash Health Center. According to the directorate of the psychiatric organization, the issue of water supply in the Armash community has not been completely solved yet in order to alleviate the problem of water cuts in such conditions, they have installed plastic water tanks in the basement of the psychiatric organization -in the canteen and corridor. During the private interviews, the patients mentioned that they mainly take drinking water from the water tank in the corridor of the canteen and collect it in plastic bottles, but there are cases when they have to use non-potable drinking water from hospital taps, which is not allowed.

Therefore, it is necessary to provide psychiatric organizations with permanent access to water.

6. The presence of female and male wards in psychiatric organizations, and the absence of special, separate accommodation in this regard is problematic. The issue has been addressed in the AD hoc public report of the Human Rights Defender ''On Ensuring Rights of Persons with Mental Health Problems in Psychiatric Organizations[81], as well as in the 2019 Annual Report on the Activities of the National Preventive Mechanism[82].

Thus, during the monitoring visit to the National Center for Mental Health Care, one female patient was kept in a special department with 48 male patients with mental health problems. The woman was kept in the hospital room directly in front of the canteen entrance door, which, like other departments, was separated from the corridor by a latticed door, within visibility of men. A woman's daily life, in particular, being in bed, living, etc., are in the direct view of others.

Therefore, in psychiatric organizations it is necessary to provide separate living conditions for men and women.

7. The existence of separate smoking rooms in psychiatric organizations is also problematic. In particular, there were separate smoking rooms in only a few departments of the National Center for Mental Health Care.

There was a room on the first floor of the Armash Health Center with a stove for wood. During private interviews with the representatives of the National Preventive Mechanism, the patients mentioned that the stove room also serves as a smoking room. The laundry-bathroom located on the first floor of the mentioned psychiatric organization also served as a smoking room. The issue is especially relevant in the context of the high number of smokers kept in the psychiatric organization.

Thus, in psychiatric organizations, it is necessary to exclude smoking in closed rooms by persons with mental health problems, thus providing adequate and ventilated areas.

Summing up the issues discussed, it is necessary to emphasize that living conditions in psychiatric organizations continue to be unsatisfactory. Ensuring necessary and adequate living conditions for persons with mental health problems is a key therapeutic factor in improving patients' mental health.

Taking into account the inadequate living conditions in psychiatric organizations for many years, it is necessary to take immediate and precise steps to improve them.

[81] See: https://ombuds.am/images/files/1a342c6fb902f57c52e8495d183e3095.pdf webpage, as of 31.03.2021.

[82] See: https://www.ombuds.am/images/files/f6bccc6db65258e28be6f3e093987a15.pdf webpage, as of 31.03.2021.

3.20. Washing and bathing

During the visits within the framework of the National Preventive Mechanism, the issues related to the observance of personal hygiene requirements in psychiatric organizations were constantly studied. In this regard, during the visits, the processes of bathing of persons with mental health problems, as well as washing personal clothes and linen are examined.

During the monitoring visits to psychiatric organizations in 2020, a number of problems related to inadequate bathroom conditions were identified.

Thus, in all departments of the National Center for Mental Health Care, insufficient bathroom conditions were recorded. In particular, the bathroom of the quarantine department was half-destroyed, the wall of the bathroom of the 4th department was mossy, the plaster of the ceiling was shed. In the 6th department, the toilet was not separated from the bathroom, so it was not possible to use them at the same time.

It should be noted that it is praiseworthy that the National Center for Mental Health Care did not have any problems with the frequency of organization of bathing; the bathing were organized on request, which is welcome.

The shower heads on the second floor of the Armash Health Center were removed. In that bathroom, according to the information received, the bathing was organized mainly during the summer months, as it is possible to provide the maximum water temperature with the help of electric geyser -systems. During the visit, it was recorded that the geyser -systems of the electric heating in the first and second floor bathrooms of the psychiatric organization did not heat the water enough. According to the information received during the private interviews, the bathing for persons with mental health problems was organized once a week. The patients reported that the bathing in the laundry-bathroom was organized in groups of 3-4 persons. In particular, while one of the patients is under the shower, the other patients soap their body and take a shower one after the other.

At the same time, there was a transparent, uncovered window in the mentioned laundry-bathroom and from the outside of the building, from the outdoor exercise yard the staff and other patients had the opportunity to follow other persons' bathing without hindrance.

This practice of organization of bathing is unacceptable and can lead to humiliation of the dignity of persons with mental health problems

Representatives of the Human Rights Defender in psychiatric organizations have studied a number of issues related to the organization of patients' clothes and linen washing.

Problems with the personalization of clothes have also been recorded in psychiatric organizations. In particular, in the National Center for Mental Health Care, many patients did not recognize their clothes;

after washing them, all the clothes were distributed at random. The same problem was recorded during the visit last year.

In the Armash Health Center, the clothes of persons with mental health problems, including underwear, were also not personalized; patients were provided with their clothes in a mixed order. The washed clothes were stored in wardrobes in the first floor corridor of the psychiatric organization. At the time of the monitoring visit, the clothes were not arranged, the women's and men's underwear were not separated. According to the staff, only patients who can distinguish between them can wear their personal clothes after washing.

It should be noted that the same problem was recorded by the Defender's representatives during their visits to the Armash Health Center in 2017 and 2018, and the issue was raised in the references summarizing the results of the visits, but no change was registered in the differentiation of patients' clothes. Thus, the problem remains unresolved for a long period of time: concerning the discriminative approach to persons with mental health problems for years, no practical, effective steps have been taken, which is of great concern.

Washing is organized on a contractual basis in the National Center for Mental Health Care. However, during the visit, it was recorded that male and female patients in the 7th departments of the psychiatric organization were personally washing their own clothes, sometimes in a shared bowl.

Taking into account the abovementioned, it is necessary to:

- ✓ ***Carry out renovation works in the bathrooms of the departments and provide proper sanitary and hygienic conditions;***
- ✓ ***Ensure the separation of the toilets of psychiatric organizations from the bathrooms;***
- ✓ ***Provide adequate access to a bathing for persons with mental health problems while ensuring the possibility to take more frequent bathing due to hygiene requirements, but not less than twice a week;***
- ✓ ***Provide all persons with mental health problems with personal clothing appropriate to their age, sex and weather conditions;***
- ✓ ***Ensure the proper organization of washing and storage of clothes and linen for persons with mental health problems kept in psychiatric organizations;***
- ✓ ***Ensure access to hot water in bathrooms and functionality of showers;***
- ✓ ***Exclude the practice of taking a bathing in groups of persons with mental health problems, providing dignified conditions for the latter;***
- ✓ ***Eliminate any kind of discriminative approach of persons with mental health problems.***

3.21. Provision of proper nutrition

During the monitoring visits in 2020, the Human Rights Defender's representatives examined the issues related to food provided to persons with mental health problems. They are especially important given the fact thatcprovision of adequate quality food is a prerequisite for the normal functioning of patients.

As a result of the monitoring, a number of systemic problems were recorded, such as the provision of food of identical type, non-observance of the minimum daily portion, the absence of mandatory daily meals, and the availability of the same menus during the week.

Thus, as a result of the studies conducted in 2020 within the framework of the National Preventive Mechanism, it was recorded that psychiatric organizations do not in all cases provide the food intended for by the RA Government Decree No. 711- Ն of 26 May 2011[83], as well as the minimum daily food rations.

For years, the Human Rights Defender has raised the issue of non-compliance of food provided in psychiatric organizations with the criteria established by the abovementioned Decree. Moreover, there have been cases when psychiatric organizations have not provided the food intended by the mentioned Decree at all.

In particular, the absence of dairy products, meat products (including poultry), seafood, vegetables, fresh and dried fruits, as well as fruit juices from daily menus, when, according to the Decree, should be provided daily, is more common in psychiatric organizations.

This is especially problematic when the abovementioned foods are not replaced by adequate alternatives; it turns out that the daily portion of persons with mental health problems consist only of cereals and pasta, which does not meet the requirements of patients' physical health.

It should be noted that the practice of not adhering to the minimum daily portion of food is relevant for all psychiatric organizations.

Thus, for example, meat was provided less than the minimum daily portion of up to 100 grams, instead of the prescribed 125 grams (Lori Regional Neuropsychiatric Dispensary, Armash Health Center). Vegetables were mainly provided in the minimum daily portion of less than 400 grams, in a ration of 20 to 380 grams ("Avan" Mental Health Center, Lori Regional Neuropsychiatric Dispensary, Armash

[83] RA Government Decree No. 711-Ն "On Determining the Average Daily Portion of Food for Persons Kept in Psychiatric Organizations, Number of Clothing and Their Terms of Use, Number of Bedding and Hygiene Items and Terms of Their Use" of 26 May 2011.

Health Center). Potatoes in a ration of 100 to 250 grams instead of the prescribed 300 grams (National Center for Mental Health Care, Lori Regional Neuropsychiatric Dispensary), etc.

During a monitoring visit to the National Center for Mental Health in 2020, patients often complained of insufficient food and hunger in the evening. **In this case, the violation of the minimum daily portion is not allowed.**

Taking into account the abovementioned and the fact that for years psychiatric organizations have been experiencing problems with non-compliance with the minimum daily food portion prescribed by law, it is necessary to review the minimum daily food portion in psychiatric organizations while maintaining control over the observance of the minimum portions of the food provided.

Of particular concern is the provision of food to patients with special needs who suffer from various chronic diseases and who are on a diet. For example, the National Center for Mental Health Care does not have the opportunity to ensure a separate menu and to provide the indicated food to patients with diabetes due to the latter's disease, which is problematic.

Therefore, it is necessary to:

- ✓ ***Provide the assortiment of food defined by the RA Government Decree No. 711- Ն of 26 May 2011 and the minimum daily portion to persons with mental health problems in psychiatric organizations;***
- ✓ ***Review and improve the assortiment of food defined by the RA Government Decree No. 711- Ն of 26 May 2011 and the minimum daily portion;***
- ✓ ***Ensure the variety of food in psychiatric organizations, excluding the daily and frequent provision of the same food;***
- ✓ ***Provide a separate menu for patients in need of diet and suffering from chronic diseases and provide the latter with appropriate food.***

3.22. Employment

Patient employment issues are of utmost importance in terms of ensuring rehabilitation and social integration for persons with mental health problems.

The monitoring visits conducted in 2020 show that the issues of patient employment in psychiatric organizations remain problematic, as recorded in the AD hoc public report[84] "On Ensuring the Rights of

[84] See: https://ombuds.am/images/files/1a342c6fb902f57c52e8495d183e3095.pdf webpage, as of 31.03.2021, pages 87-88.

Persons with Mental Health Problems in Psychiatric Organizations" of the Human Rights Defender and in the *annual* reports[85] on the 2018, 2019 activities of the National Preventive Mechanism.

According to the information provided by the RA Ministry of Health, board games (chess, checkers, backgammon), watching TV programmes and movies are provided for persons with mental health problems in psychiatric organizations. According to the Ministry of Health, there are music, sports therapies, woodworking and furniture studio, small-scale agriculture and beekeeping programmes in the psychiatric organizations and those who wish are included in these programmes, however, no similar programmes were implemented in psychiatric organizations during the monitoring visits in 2020.

Over the years, the Human Rights Defender's representatives have recorded that the main source of employment for persons with mental health problems in psychiatric organizations has been watching television. During the monitoring visits, it was recorded that the TV sets were mainly installed in the corridors of the departments, sometimes even in the hospital rooms. It is problematic that even in the case of being mainstream entertainment, there have been a number of issues related to access to TV sets. In particular, the TV set in one of the hospital rooms of the special departments of the National Center for Mental Health Care did not have a suitable device for digital television broadcasting (SmartBox), which made it impossible to use it. The described practice of patients' employment is very worrisome.

Persons with mental health problems have repeatedly complained to the Human Rights Defender representatives about the absence or scarcity of board games, books, or other occupational activities, noting that the time in organizations passes slowly and they do not have extra activities to fill the day. As for the available means, they are either not enough or are not available to persons with mental health problems. For example, in the meeting hall of the Armash Health Center there were exercise equipment (exercise bike, walking equipment, fitness balls, etc.), which were not used by persons with mental health problems because they did not have access to them.

Another systemic problem is that the departments of psychiatric organizations generally do not have rooms for rest and employment.

The Human Rights Defender has repeatedly emphasized in their annual public appearances that the mere presence of television and board games for persons with mental health problems does not solve the problem of providing them with employment. In order to organize the daily life of patients, it is necessary to take into account their preferences and abilities It is very important to implement training programmes through game-based methods, as well as to meet the minimum

[85] See: https://ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf and https://ombuds.am/images/files/f6bccc6db65258e28be6f3e093987a15.pdf webpages, as of 31.03.2021, pages 127-128 and 139-143.

requirements of physical education, to conduct trainings that meet safety rules for psychiatric organizations, which are not generally implemented in psychiatric organizations.

In its 2016 Report on its visit to Armenia, the CPT noted that *psychiatric establishments are almost entirely based on pharmacotherapy and controlling the spread of disease, without any physical, social rehabilitation, occupational, or creative activities (...)*[86]. In the 2006 Report on its visit to Slovakia, the CPT emphasized *theta theres is a need to take steps to provide more targeted occupations for persons with mental health problems*[87].

Thus, the issue of providing employment for persons with mental health problems in psychiatric organizations remains unresolved, which is extremely worrying.

Thus, based on the abovementioned, it is necessary to:

- ✓ ***Provide access to means of occupation including television, board games and exercise machines for the persons with mental health problems in psychiatric organizations;***
- ✓ ***Separate rooms for organizing occupational activities and for rest in psychiatric organizations;***
- ✓ ***Create different types of activities of targeted occupations for persons with mental health problems, not limited to just TV and board games.***

3.23. Outdoor exercises and opportunity to move freely

During the monitoring visits carried out by the National Preventive Mechanism in 2020, the opportunities of outdoor exercises and free movement of persons with mental health problems in psychiatric organizations were studied.

The Human Rights Defender's representatives recorded that many of the patients in the Armash Health Center had the opportunity to enjoy the right of outdoor exercises without hindrance. According to the latter, they go out into the yard when the weather conditions are good, and spend the rest of the time in the department.

Although the area for the outdoor exercises in the abovementioned psychiatric organization was large, there was a chat room in the outdoor exercise yard, it was not in a good condition, in particular, its metal part was rusty and the wooden benches were broken. As during the previous visits, this time in different

[86] See: https://rm.coe.int/16806bf46f webpage, as of 31.03.2021, paragraph 124.

[87] See: https://rm.coe.int/1680697da1 webpage, as of 31.03.2021, paragraph 92.

parts of the outdoor exercise yard there were accumulations of other unusable items and garbage (wardrobes, refrigerators, a sink, old iron beds and their remnants, metal scraps of cars, etc.).

Also of concern are the problems associated with maintaining registers about the outdoor exercises of persons with mental health problems. Thus, the entries in the registers of outdoor exercises of the National Center for Mental Health Care were incomplete; only the column with the patient's name was filled in and the signatures of the latter were put and the columns of ‘’time of outdoor exercises’’ , ‘’time to return from outdoor exercises'', ‘’special notes’’ were not filled in except in the register of outdoor exercises kept in the 6th department. A study of the relevant registers revealed that the examinees generally refused to walk, which is worrisome.

Moreover, the outdoor exercise yard of the 6th department of the National Center for Mental Health Care was small, and three of the benches there were without support. It is welcome that a swing was placed between the newly planted trees in the outdoor exercise yard of the psychiatric organization, but there were no shelters or other conditions for rest in that area, which is problematic from the point of view of the proper realization of the right to outdoor exercises.

From the perspective of exercising the right of outdoor exercises, it is very important to ensure proper conditions in the outdoor exercise yards. According to the information provided by the RA Ministry of Health, by 2020 the outdoor exercise yards of psychiatric organizations were mostly not improved or renovated.

Therefore, it is necessary to:

- ✓ ***Take steps to improve the outdoor exercise yards of psychiatric organizations;***
- ✓ ***Maintain the register of outdoor exercises properly;***
- ✓ ***Ensure that persons with mental health problems exercise their right to daily outdoor exercises in accordance with the law.***

3.24. Contact with the outside world

Persons with mental health problems in psychiatric organizations are vulnerable to both social networking and existing relationships. Maintaining contact with the outside world is crucial for the mental state of patients. It is very important that psychiatric organizations promote persons with mental health problems to stay in touch with the outside world. Especially when many of them are patients of care, who, after years of being inside the walls of a psychiatric organization, are alienated from their social environment. It should be noted that the situation is more problematic in the context of restrictions on measures to prevent the novel Coronavirus (COVID-19) pandemic.

The issues identified by the National Preventive Mechanism during the monitoring visits in 2020 were mainly related to telephone communication, correspondence and visits.

Thus, the National Center for Mental Health Care had taxophones or landlines in all departments surveyed during the monitoring visit. In conversations with patients, it was recorded that some patients were pressured due to calling to the hotline number of the Human Rights Defender's Office, **which is inadmissible**.

However, the telephone contact of persons with mental health problems was not always available, in particular, there were no taxophones in the Armash Health Center, moreover, persons with mental health problems were not allowed to keep mobile phones. Persons with mental health problems applied to the sister-housekeeper (social worker) of the Armash Health Center to use the telephone, who provided her personal mobile phone to make phone calls. During the private interviews, it turned out that the patients had telephoned their relatives 1-2 times a month.

In connection with the abovementioned, it should be noted that according to paragraph 2 of part 3 of Article 6 of the RA Law ''On Psychiatric Care and Services'', *persons with mental disorders being treated in a psychiatric organization have the right to use telephone communication*. Paragraph 2 of the Annex to the same Law stipulates that *psychiatric organizations shall place at least one taxophone in their area in a place accessible to persons with mental disorders.*

The RA Law ''On Psychiatric Care and Services'' provides the procedure for restricting certain rights of persons with mental health problems, including the right to use telephone communication. Thus, according to part 1 of Article 6 of the said Law, *the rights subject to restriction (...) are restricted until the grounds for restriction of rights are eliminated in the case prescribed by law or by a psychiatric commission, and in case of impossibility to establish it at the moment (...)by a reasoned decision of the researcher or therapist-psychiatrist, if the exercise of those rights poses a real threat to the person with mental health problems or the environment. The reasoned decision of the psychiatric commission or the examining or treating doctor-psychiatrist, as well as the elimination of the reasons for the restriction of the rights, shall be made in the medical document of the person with mental health problems.*

Analyzing the mentioned circumstances and legal regulations, it should be noted that the Armash Health Center did not preserve the right of persons with mental health problems to use the telephone, as the latter were actually deprived of the opportunity to have a mobile phone, there was no taxophone in the psychiatric organization and in order to have a limited access to telephone communication, patients were directly dependent on an employee of a psychiatric organization who provided a personal mobile-phone.

The ban on having mobile phones is extremely problematic, patients' rights have been restricted without a legal basis, so it is subject to immediate exclusion, especially with limited access due to the novel Coronavirus (COVID-19) pandemic.

At the same time, it should be emphasized that the abovementioned problem was recorded during the previous visits to the same psychiatric organization in 2017-2018, but after raising the issue, the mentioned issue has not been resolved yet, which is unacceptable.

By the order of the director of the National Center for Mental Health Care, the order of using mobile phones by patients receiving in-patient treatment in the departments of the psychiatric organization was approved, according to which all inpatients can use their own means of communication from 9:00 to 21:00. Records were kept in the departments, where the data of patients with personal telephones were recorded, the cases of receiving and handing over the telephones to the nurses.

Regular visits of patients with their relatives or other close persons are very important in terms of maintaining contact with the outside world. However, under the novel Coronavirus (COVID-19) pandemic visits were limited at different times.

In particular, at the time of the monitoring visit under the National Preventive Mechanism (August 2020), visits to the National Center for Mental Health Care were strictly prohibited to prevent the novel Coronavirus (COVID-19) pandemic.

The meeting room on the first floor of the building of the 6th department of the psychiatric organization served as a place of seclusion for suspected cases of the novel Coronavirus (COVID-19). There was no artificial lighting in the meeting room of the 7th department at the time of the visit, as there were also open wires.

According to the daily regime established by the order of the director of the National Center for Mental Health Care, the visits were provided from 12:30 to 20:00, but for the visits of the special type department from 10:00 to 16:00, in the examination department from 9:00 to 16:00. The mentioned schedule may cause additional difficulties for the relatives of the persons undergoing forensic psychiatric examination receiving treatment in the 6th and 7th departments, who live in the regions, do not have opportunity to visit their relatives during working hours, an issue that was raised during the previous visit.

As for the opportunities for persons with mental health problems held in the Armash Health Center to communicate with the outside world, it should be noted that they were quite limited. A room has been set aside for visits with relatives, but a study of the "Relatives' Visit" register kept in the psychiatric organization revealed that since 1 March 2020, persons with mental health problems have not had visits. From 5 January to 1 March 2020, 44 visits took place.

During conversations with the staff of the psychiatric organization, as well as persons with mental health problems, it was found out that sometimes during the year there were meetings with relatives, which were held outside the building. The relatives stood in front of the gate of the psychiatric organizations, outside the area, kept a distance of 3-4 meters and communicated with the patients, who continued to stay in the area of the psychiatric organization. According to persons with mental health problems, the visits lasted for 2-10 minutes in the mentioned conditions, depending on the weather conditions, taking into account the absence of conditions for the visit (bench, table).

The visits made in the mentioned conditions were not recorded in the "Relatives' Visit" register. At the same time, it should be noted that in the mentioned register only the date, the name of the patient (in some cases, only the name) are recorded as well the food delivered as a hand-over. The details of the visiting relative were not recorded.

It should be noted that according to paragraph 16 of the Annex to the RA Government Decree No. 1514-Ն "On Establishing Quarantine due to the Novel Coronavirus (COVID-19) Pandemic" of 11 September 2020, *visits to long-term care institutions and psychiatric organizations are allowed exclusively in the absence of current cases of the novel Coronavirus (COVID-19) and in case of observance of sanitary-epidemiological safety rules.*

It turns out that by the RA Government decree on establishing quarantine, visits to psychiatric organizations were not prohibited. There are two requirements for their implementation: absence of current cases of the novel Coronavirus (COVID-19) and observance of sanitary-epidemiological safety rules.

Therefore, based on the right of persons with mental health problems to meet with visitors, provided for in paragraph 15 of part 1 of Article 5 of the RA Law ‘’On Psychiatric Care and Services’’, it is necessary to provide proper, dignified conditions for visits, while maintaining sanitary-epidemiological safety rules for the prevention of the novel Coronavirus (COVID-19) pandemic.

The representatives of the Human Rights Defender stated that although mailboxes were installed in the monitored psychiatric organizations, there were a number of problems.

For example, mailboxes in the National Center for Mental Health Care allowed patients to send letters to the director of a psychiatric organization, but this limited access to letters from other individuals, including relatives, other members of the administration, government agencies, and organizations.

And the staff of the Armash Health Center was not able to present to the Human Rights Defender's representatives the procedure for registering the applications and complaints of persons with mental health problems in the box and sending them to the addressees.

In this regard, it should be noted that the existence of effective appeal mechanisms, regardless of the type of place of deprivation of liberty, is a fundamental guarantee against the prohibition of torture, inhuman or degrading treatment.

The CPT also referred to the issue, which in paragraph 84 of the 27th General Report of 2018 emphasized that the psychiatric organization should have *direct and confidential access to the appeal, i.e. closed application-complaint boxes should be placed in the appropriate places, which should be opened and be intended only by persons designated for that purpose who maintain the confidentiality of the application-complaint, and the staff carrying out day-to-day work with the persons kept there should not have the opportunity to study the application-complaint.*

It should be noted that the National Center for Mental Health Care is located in the Nubarashen administrative district of Yerevan, quite far from residential areas. During the visit, the issue of access to public transport was studied and it was recorded that: in the direction of a psychiatric organization, no public transport is used when 406 patients are kept there and 286 employees are employed. The difficulty of reaching the psychiatric organization does not contribute to the constant contact of patients and their relatives, as well as the attractiveness of working there.

Therefore, it is necessary to:

- ✓ ***Properly ensure the right of persons with mental health problems to have visitors;***
- ✓ ***Provide proper and dignified conditions and facilities for visits, observing the rules of sanitary and epidemiological safety for the prevention of the novel Coronavirus (COVID-19) pandemic;***
- ✓ ***Renovate the meeting rooms, providing proper furniture and artificial lighting.***
- ✓ ***Properly record the complete data on visits in the relevant register;***
- ✓ ***Ensure the full realization of the right of persons with mental health problems to have access to telephone communication, including the opportunity to call to the 116 hotline number of the Human Rights Defender without hindrance;***
- ✓ ***Provide at least one taxophone in a psychiatric organization, in an accessible place for persons with mental health problems;***
- ✓ ***Eliminate the general prohibition of patients to keep mobile phones by restricting the right to use the telephone only in cases provided by law;***
- ✓ ***Establish the procedure for opening the box of application-complaints abd registering them, ensuring that persons with mental health problems have the opportunity to write an application-complaint with confidentiality;***
- ✓ ***Provide persons with mental health problems with the opportunity to conduct confidential correspondence with government agencies, organizations, relatives and with other persons;***
- ✓ ***Provide transportation access to psychiatric organizations.***

3.25. Passports and pensions

Article 4 of the RA Law ''On Passports of the Citizens of the Republic of Armenia'' stipulates that a *citizen receives a passport voluntarily, independently from age.* Thus, persons with mental health problems, like other citizens of the Republic of Armenia, have an equal right to receive a passport of a citizen of the Republic of Armenia.

In this regard, the representatives of the Human Rights Defender in 2020 continued to record problems with the issuance of passports to persons with mental health problems in psychiatric organizations.

Thus, according to the information provided by the RA Ministry of Health, one person did not have a passport in the Armash Health Center, for which the psychiatric organization applied to the regional passport department, the case was in progress as of December 2020.

It should be emphasized that the issue of not having a passport of this person has been raised for years during the monitoring visits carried out within the framework of the National Preventive Mechanism. According to the medical history, the latter does not receive treatment, but continues to live in a psychiatric organization. Thus, for years, the mentioned process has not had a positive result, which is very worrisome.

As for the National Center for Mental Health, according to the information provided by the RA Ministry of Health, as of December 2020, 16 patients had a problem obtaining a passport, for 2 of which the process of obtaining a passport has already begun.

The absence of a passport for persons held in psychiatric organizations significantly limits the ability to exercise a number of patients' rights. Therefore, it is necessary to take urgent steps to provide passports to all patients in psychiatric organizations.

As a result of the Human Rights Defender's monitoring as part of the National Preventive Mechanism in 2020, a number of issues related to the management and provision of pensions and subsidies for patients were identified.

In particular, during the private interviews with the patients of the National Center for Mental Health Care, the following issues were raised:

- ✓ Some persons with permanent disabilities have not received their disability pension or subsidies after being admitted to a psychiatric organization.
- ✓ The patient applied for a medical and social examination, but was not examined.
- ✓ The patient's disability group term has expired, but no medical and social re-examination has been performed.
- ✓ The patient is permanently registered in the Republic of Artsakh, but has not received

their disability pension or subsidy after being transferred to a psychiatric organization.

- ✓ Some patients did not receive their pensions or subsidies because of the anti-pandemic measures to prevent the spread of the novel Coronavirus (COVID-19) the pensions and subsidies were not delivered to a psychiatric organization.
- ✓ Patients do not have the opportunity to receive or manage their pensions or subsidies on their own (the latter use the help of relatives or medical personnel for this purpose, there is is no ATM in the area of psychiatric organization).

Thus, some persons with disabilities in the National Center for Mental Health Care have in fact been deprived of the opportunity to receive or manage a pension or subsidy on their own due to an absence of appropriate mechanisms or problems with their practical application, which is unacceptable.

In accordance with Article 9.1 of the UN Convention ''On the Rights of Persons with Disabilities'', *States Parties shall take appropriate measures to enable persons with disabilities to live independently and to participate fully in all spheres of life on an equal basis with others, information and communication, including information and communication technologies and systems, as well as the availability of other facilities and services that are available to the public in both urban and rural areas.*

In view of the abovementioned, it is necessary to develop flexible mechanisms for providing and managing pensions to patients of psychiatric organizations, excluding unnecessary delays in their examination or re-examination.

Problems related to the provision and management of pensions were also registered in the Armash Health Center. More than half of the persons with mental health problems in the abovementioned psychiatric organization received pensions, only nine persons received their pensions in person. In other cases, relatives of persons with mental health problems received their pensions on the basis of powers of attorney certified by the director of the psychiatric organization.

In this regard, a notebook on references and powers of attorney was kept in the intervention room of the Armash Health Center. The study of the mentioned notebook showed that the directorate of the psychiatric organization regularly ratifies the powers of attorney by persons with mental health problems issued to relatives for a period of 1-6 months in order to receive their pensions from relatives. During 2020, the psychiatric organization regularly ratified the powers of attorney of 35 persons with mental health problems, which were mainly related to receiving a pension.

Although the directorate of the psychiatric organization has acknowledged that the pensions received on the basis of the power of attorney are not mainly spent by relatives for the benefit of persons with mental health problems, however, in order to avoid suspicions of a corrupt nature misconceptions about the organization's interest, the psychiatric organization has ratified the powers of attorney without hindrance.

In this regard, during the monitoring visit, in the presence of the Human Rights Defender's representatives, one of the employees of the Armash Health Center demanded that a person with mental health problems sign a document without disclosing its contents. The Human Rights Defender's representatives found out that the abovementioned document was a power of attorney, by which the patient authorized the relative to receive their pension from the post office, to sign on their behalf, to perform all the actions related to the mentioned process. The power of attorney was issued for a period of 3 months. It was also mentioned in the power of attorney that it was signed in the presence of the head of the department of the psychiatric organization mentioned by the patient. Meanwhile, the Defender's representatives stated that the mentioned person was not present at the moment of signing the document. The power of attorney was already signed by the head of the department and the director of the psychiatric organization before presenting it to the person with mental health problems.

Pursuant to part 4 of Article 321 of the Civil Code of the Republic of Armenia, *the salary and other equivalent payments, pensions, stipends, scholarships and subsidies, the power of attorney for individuals to receive bank deposits and postal items can be approved by (...) the management staff of the institution of providing medical assistance and health care where the authorized person receives in-patient treatment.*

According to part 2 of Article 23 of the RA Law ''On Notary'', the notary is obliged to:

1) *Assist persons in carrying out notarial acts, to clarify their rights and responsibilities in order to exercise their legal interests, to warn them about the consequences of performing notarial acts, so that the legal ignorance of the person is not used to their detriment.*
2) *Clarify to the parties the meaning and significance of the draft transactions submitted by them; to check their compliance with the real intention of the parties.*

Taking into account that the director of a psychiatric organization has the powers of a notary in this relationship, it is very important that the ratification of the powers of attorney issued by the latter is not of a formal nature. Ratifying the power of attorney, notarized officials should not only be present at the issuance of the power of attorney, but also, taking into account the vulnerability of persons with mental health problems, clarify their rights, the consequences for the person as a result of the power of attorney, check the real intentions of the parties.

According to the information provided, relatives of some mentally ill or incapacitated patients with mental health problems provide AMD 3,000-5,000 per month to a psychiatric employee to buy food or other utensils or prepare meals for their relatives.

Problems were also recorded in cases when patients received the pension in person. Even if they received it in person, persons with mental health problems did not have the opportunity to manage their pensions on their own.

Thus, during the monitoring visit to the Armash Health Center, it was recorded that the patients' pensions were in envelopes with an employee of a psychiatric organization. In each envelope, the purchases made by the employee, the prices of the goods and the balance without indicating the dates and the presence of coupons were marked on separate papers.

The abovementioned is extremely problematic and contains a number of risks connected with absence of control over the use of the pensions of persons with mental health problems for the benefit of the latter by the staff of a psychiatric organization, possible abuses and discriminative attitude and other issues.

The situation of persons with mental health problems has hindered their self-management, also due to the situation caused by the novel Coronavirus (COVID-19) pandemic. According to the information received, some patients, before the restrictions applied in the conditions of the novel Coronavirus (COVID-19) pandemic, personally managed their pension, used the nearest store.

Persons with mental health problems in psychiatric organizations are more vulnerable to both the stability of social interactions and the protection of material interests. In this context, the issue of self-management of property, income, including pensions by persons with mental health problems in psychiatric organizations is particularly problematic. All the cases described are very worrisome.

Thus, persons with mental health problems in psychiatric organizations need to be constantly controlled for the issues of self-management of their property and income or use for their own benefit.

Taking into account the abovementioned, it is necessary to:

- ✓ ***Take measures to provide persons with mental health problems with passports;***
- ✓ ***Develop flexible mechanisms for provision and management of pensions to patients of psychiatric organizations, excluding unnecessary delays in their examination or re-examination;***
- ✓ ***Take steps to ensure the proper ensuring of the right to receive and manage the pensions of persons with mental health problems in psychiatric organizations;***
- ✓ ***Establish strict control over the ratification of powers of attorney by the directorate of a psychological organization, which are issued by persons with mental health problems from the point of view of proper awareness of the person and ensuring their rights;***
- ✓ ***Exercise strict control over the process of managing patients' pensions by the employees of psychiatric organizations.***

3.26. Shortage of staff, working conditions of employees and social guarantees

The Human Rights Defender has always stated that the protection of human rights requires a comprehensive approach. Therefore, it is extremely important to ensure the rights and proper working conditions of the employees of psychiatric organizations, as they are one of the guarantees of the effective activity of psychiatric organizations.

Emphasizing the role of the staff of psychiatric organizations and the protection of human rights, the Human Rights Defender has consistently raised issues related to the working in favorable conditions of the latter[88].

Monitorings in 2020 done by the representatives of the Human Rights Defender shows that working conditions in psychiatric organizations continue to be unsatisfactory.

The shortage of staff in psychiatric organizations remains a serious problem, which puts a heavy workload on the working staff. Employees, in addition to their main responsibilities, have to perform additional work, which occurs in the absence of relevant employees. In such conditions, the work of the latter cannot be effective, which results in an unfavorable environment for the full realization of the rights of persons with mental health problems.

Thus, there were vacant positions in both the medical and service staff in the National Center for Mental Health Care. A study of the staff list of the psychiatric organization revealed that the positions of 4 psychiatrists-epidemiologists were vacant. Moreover, in the departments where all the planned positions were filled, there was a need for additional positions of the service staff. For example, it is hard to imagine that the care and supervision of 59 persons with mental health problems in the female ward of the National Center for Mental Health Care could have been properly organized in the evening by one on-duty nurse and 2 hospital attendants. During the monitoring it was recorded that after 16:12 in the female ward of the psychiatric organization the on-duty nurse and two female hospital attendants were on duty, and the head of the department, the doctor and the senior nurse worked until the mentioned time.

A similar situation was recorded in the Armash Health Center. It should be noted that the psychiatrists of the psychiatric organization worked on working days for a set period of time. No psychiatrist was involved in the 24-hour shift in the Armash Health Center, on non-working days and hours in the institution where 85 persons with mental health problems were treated and on the day of the monitoring visit, no psychiatrist was on duty. **The mentioned abovementioned is extremely problematic.**

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[88] See: Reports on the 2018-2019 activities of the Human Rights Defender as the National Preventive Mechanism, https://ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf and https://www.ombuds.am/images/files/f6bccc6db65258e28be6f3e093987a15.pdf webpages, ,as of 31.03.2021, pages 94-96 and 150-154.

A number of requirements of the RA Law ‘’On Psychiatric Care and Services’’ stipulate the need for an on-duty doctor on non-working days and hours in the organization providing psychiatric medical assistance. Thus, part 1 of Article 7 provides that (...) *on the basis of a reasoned decision by the on-duty doctor-psychiatrist, a person with a mental health problem receiving psychiatric care and services may be subjected to physical restraint or seclusion measures or methods of sedation.*

According to paragraph 30 of the Annex approved by the RA Government Decree No. 350-Ա "On Approving the Procedure for Providing Out-patient and In-patient Psychiatric Medical Assistance" of 1 April 2010, *if the patient does not have instructions for in-patient psychiatric hospitalization, the on-duty doctor rejects the admission of a patient to a psychiatric organization by making a reasoned entry in the register,* and according to paragraph 33, *the patient or the examinee admitted to the psychiatric hospital is examined by the treating doctor on the first day, and those admitted on weekends or on holidays by the on-duty doctor.*

The CPT also referred to the issue in paragraph 42 of the 8th General Report on its activities, according to which *the personnel resources should be adequate in terms of quantity, working staff (psychiatrist, therapist, nurse, psychologist, occupational therapist, social worker, etc.).), as well as in terms of professional experience and training*[89].

Another important element for the normal operation of psychiatric organizations is the provision of working conditions for the employees of the organizations. During the monitoring carried out within the framework of the National Preventive Mechanism, it was recorded that there were insufficient conditions in psychiatric organizations that reduce the efficiency of staff activities.

Thus, the toilet located on the first floor of the administrative part of the National Center for Mental Health Care, which was used by the employees of the psychiatric organization, was in serious need of renovation and was in poor sanitary and hygienic condition. The walls and the floor were wet, the plaster was spilled in some parts, and the tiles were destroyed. The working conditions of the reception were also worrying. In particular, the toilet used by the reception staff was in a deplorable condition and needed to be repaired. The kitchen for the employees of the 9th department of the psychiatric organization was in a deplorable condition; the plaster of the walls was destroyed, the tiles were worn out, the furniture was broken and worn out.

It should be noted that the bartenders of the National Center for Mental Health Care took the food from the kitchen of the psychiatric organization to the departments in buckets each time to provide food. For the latter, it was difficult to walk two or three times with two enameled buckets to a kitchen from departments being at a certain distance and bring the same buckets of food back.

[89] See: https://rm.coe.int/1680696a72 webpage, as of 31.03,2021.

Insufficient working conditions were also registered in the Armash Health Center.

Thus, the working conditions of the reception were worrying: the reception room and the adjacent rooms were not heated, there was no toilet in the adjacent area. It was 9.6 ° C at the time of the monitoring visit to the drug warehouse, and it was not possible to work in the room for a long time. To slightly change the room temperature, the nurse used an old electric spiral heater. The absence of constant hot water in the doctors' room was also a problem.

The mentioned unsatisfactory working conditions in psychiatric organizations were also recorded during the monitoring visits carried out in previous years. **No steps have been taken in this regard since 2017, which is problematic.**

At the same time, it is very important to provide adequate social guarantees for the employees of psychiatric organizations, including salaries, which can significantly contribute to the efficiency of their work, as well as increase the attractiveness of employment in psychiatric organizations.

It should be noted that during the monitoring visit to the National Center for Mental Health, the staff of the psychiatric organization raised the issue of using social packages during the talks with the representatives of the Human Rights Defender. In this regard, it should be noted that the inclusion of the latter in the list of beneficiaries of the social package can be a constructive step in order to meet the social needs of the employees of psychiatric organizations, to increase their work efficiency and attractiveness, as well as to prevent the outflow of staff.

Another important issue is the absence of transport and organization of transportation. Thus, the bus for the employees of the National Center for Mental Health Care took the employees from "Sasuntsi Davit" square to a psychiatric organization every working day at around 8:30, and the return to the mentioned square was made at around 16:12. It turns out that the on-duty employees, who finished their work at 09:00 in the morning, did not have the opportunity to use the bus. In addition, the cooks of the psychiatric organization, the bartenders, who finished their work around 19:00, could not use the abovementioned bus. The problem is even more worrying given that there is no public transport to the psychiatric organization.

The monitoring revealed that the staff of the National Center for Mental Health Care, who work 24 hours a day, did not have the opportunity to rest. At the same time, according to the information received during the visit, in case of resting or sleeping during the shift, the latter may be subject to disciplinary liability, up to and including dismissal.

In this regard, the CPT stated in the Report on its visit to Moldova in 2015 that *the 24-hour shift regime will inevitably have a negative impact on professional activities. no one can go that long sufficiently perform the complex and responsible work of the medical personnel during the period* [90].

On the positive side, during the monitoring visits, the staff of the psychiatric organizations emphasized the need to organize professional courses and trainings and especially on the new amendments to the RA Law ‘’On Psychiatric Care and Services’’.

Thus, it is necessary to:

- ✓ ***Take measures to fill vacant positions, as well as to involve necessary specialists in sufficient staff the work of psychiatric organizations;***
- ✓ ***Carry out continuous work to improve the social guarantees and working conditions of all employees of psychiatric organizations;***
- ✓ ***Provide proper working conditions for employees of psychiatric organizations;***
- ✓ ***Discuss the issue of reviewing the 24-hour shift of the medical personnel of psychiatric organizations;***
- ✓ ***Take steps to make employees beneficiaries of the social package;***
- ✓ ***Organize regular training courses for the staff of psychiatric organizations, including topics related to sectoral legislative amendments.***

[90] See: https://rm.coe.int/16806975da webpage, as of 31.03.2021, paragraph 154.

CHAPTER 4. PENITENTIARY INSTITUTIONS OF THE MINISTRY OF JUSTICE OF THE REPUBLIC OF ARMENIA

One of the basic directions of the activity of the Human Rights Defender institution, first of all, the National Preventive Mechanism, is the protection of the rights of persons deprived of liberty in penitentiary institutions. The issues raised within the framework of this activity and the proposals for their solution are presented in this *annual* report.

Before presenting them, we consider it necessary to address the issues of cooperation with the Penitentiary Service of the Ministry of Justice.

In particular, the institutional cooperation with the Penitentiary Service made it possible to provide a discussion of problems with professional approaches to the solution of this or that problem. The Head of the Penitentiary Service and the Human Rights Defender held regular discussions on the implementation of the proposals, as well as on the initiatives of the Service.

Within the framework of the activities of the Human Rights Defender's Office, including within the framework of the National Preventive Mechanism, effective cooperation has been ensured with the management staff of the Penitentiary Service and the administrations of individual penitentiary institutions. This also applies to collaborative work at non-working hours and days. Collaboration on this principle has enabled a comprehensive approach, including taking into account the observations of employees about the complexities of their work, problems, and making human rights proposals, considering the possible effectiveness or problems that may accompany them in practice. Collaborative work with professional approaches was also carried out with the relevant subdivision of the Ministry of Justice.

From the point of view of the protection of human rights in places of deprivation of liberty, we consider it necessary to ensure the continuous development of the capacity of the Penitentiary Service, Penitentiary Institutions staff (training, etc.), as well as the continuous strengthening of their social guarantees, including salary increases. It is discussed in more detail in a separate paragraph of this report.

4.1. Ensuring the rights of persons deprived of their liberty to health protection

The right to health protection of persons deprived of their liberty in the penitentiary institutions of the Ministry of Justice of the Republic of Armenia (hereinafter referred to as ‘’Penitentiary Institutions’’) is one of their fundamental rights, which is guaranteed by both domestic legislation and internationally recognized documents.

In the course of 2020, as a result of the monitoring conducted at the Penitentiary Institutions as well as the consideration of individual complaints addressed to the Human Rights Defender had revealed such specific issues relating to the protection of the right to health protection of persons deprived of their liberty that forced to take urgent steps and to accelerate the ongoing reformation of the sector.

However, some problems have been recorded, which include:

4.1.1. Institutional independence of medical personnel

The provision of medical assistance and services to detained and convicted persons was held in Penitentiary Institutions and is organized by the "Penitentiary Medical Center" state non-commercial organization (hereinafter referred to as the SNCO) of the Ministry of Justice of the Republic of Armenia and the purpose of its activities is to maintain and recover the latter's health.

Efforts to ensure the professional independence of medical personnel in Penitentiary Institutions are welcome. However, the issue of ensuring the de facto independence of the medical personnel remains a matter of concern, taking into account the fact that the vast majority of the medical personnel of the SNCO subdivisions continue to include former representatives of the Penitentiary Service and no relevant training has been conducted for consistent adherence to the professional principles and ethics of medical personnel.

In practice, the "subordinate" relationship of the medical personnel with the administration of the Penitentiary Institution is maintained in some cases. The results of the study continue to evidence that persons deprived of their liberty do not show enough trust over medical personnel under the current institutional subordination. Of concern is the fact that patients are primarily perceived by the medical personnel as persons deprived of their liberty.

At the same time, the mechanism of prioritization of patients' interests in case of conflict of professional opinions of the employees of the Penitentiary Institution (including the administration of the institution) and doctors in connection with the realization of the patient's right to health protection is not defined. These problems are manifested, for example, in case of transferring a person deprived of liberty to an emergency medical facility, when the doctor insists that it be arranged urgently, but the administration of Penitentiary Institution does not provide the necessary technical means for various reasons.

In order to strengthen the independence of the medical personnel, as well as to properly organize and increase the efficiency of medical assistance in Penitentiary Institutions, the involvement of medical personnel in the field of public health is important.

The professional high responsibility of the medical personnel requires a real opportunity to make independent decisions and apply professional skills, which is a prerequisite for ensuring the independence of medical services. Involvement and active participation in public health will improve the professional development of medical personnel, as well as strengthen professional independence.

The observations of well-known international organizations witness this. Thus, according to CPT standards, *close involvement of the medical personnel of the Penitentiary Institutions with the public healthcare system is necessary to ensure the independence of medical personnel related to health care issues*[91].

It should be noted that there is an e-healthcare system in Armenia, which includes all medical organizations that provide free medical assistance and services or with preferential conditions guaranteed by the state. However, the SNCO is not included in this system, which creates additional difficulties in the circulation of medical records of persons deprived of their liberty, systematic medical examination, access to medical news, and other issues. The operation of this system can contribute to increasing the efficiency of the SNCO activities of its subdivisions located in Penitentiary Institutions, to the complete and rapid exchange of information, as well as to strengthening the control mechanisms.

The CPT also referred to the issue. In particular, in its 2020 Report on Iceland, the CPT *called on the authorities to introduce a system that would facilitate the circulation of medical information through relevant medical services for the benefit of persons deprived of their liberty. The possibility of collecting information in a common electronic system should be considered, ensuring quick and easy access to medical information for medical personnel in a penitentiary institution, as well as ensuring the continuity of medical assistance provided to persons deprived of their liberty, and the adequacy of both admission to and release from Penitentiary Institutions*[92].

It should be emphasized that involvement in the public healthcare system is more relevant for the development and organization of prevention measures of infectious diseases, in particular, the novel Coronavirus (COVID-19) pandemic.

At the same time, in terms of the independence of medical personnel, the Human Rights Defender has always emphasized the need to provide the latter with social guarantees.

In this regard, it is welcome that by the RA Government Decree No. 294-Ն "On Making Amendments to the RA Government Decree No. 1691- Ն of 27 December 2012" of 1 March 2020, the social guarantees of the SNCO employees were improved; employees of organizations providing medical

[91] See: the 3rd General Report on the CPT, covering the period from 1 January to 31 December 1992 at https://rm.coe.int/1680696a40 webpage, as of 31.03.2021, paragraph 71.

[92] See: https://rm.coe.int/16809a3ee3 webpage, as of 31.03.2021, paragraph 38.

assistance and services to detained and convicted persons are beneficiaries of the social package.

However, efforts to meet the social needs of the representatives of health care providers must be ongoing to increase productivity, attractiveness of work, as well for the recruitment purposes.

Summarizing the abovementioned, it is necessary to:

- ✓ ***Ensure the independence of medical personnel in practice;***
- ✓ ***Establish a flexible training mechanism for medical personnel;***
- ✓ ***Take steps to connect to the e-healthcare system;***
- ✓ ***Improve the working conditions and social guarantees of the medical personnel of the SNCO subdivisions.***

4.1.2. Adequate staffing of the medical personnel, institutional independence, provided medical services, trainings and sufficient medical equipment

The high level of processes of organization and provision of medical assistance and services of persons deprived of their liberty in Penitentiary Institutions is directly related to the staffing to the medical personnel in the SNCO subdivisions and their professional skills.

According to the information provided by the Ministry of Justice of the Republic of Armenia, the staff list of "Penitentiary Medical Center" SNCO consists of 171 positions, of which 165.25 were staffed. Out of 150.5 positions of medical personnel in the subdivisions of the SNCO, 5.75 (about 3.8%) are vacant. Compared to previous years, the positions have been staffed. According to the information provided by the Ministry of Justice of Republic of Armenia, in 2019, 16.5 out of 135 were vacant (about 12.2%), and in 2018, out of 162 medical positions, 43.5 were vacant (about 26.85%).

In 2020, it was recorded that the positions of the doctors of the SNCO subdivisions located in "Armavir" and ‘’Yerevan-Kentron’’ penitentiary institutions were staffed at the time of the monitoring visits. According to the information provided by the Ministry of Justice, some of the "Hospital for the Convicted" subdivisions of the SNCO (drug addiction, diagnostic and tuberculosis departments) continue to be vacant, as are the positions of doctors: 1 of "Sevan" subdivision, 0.25 of "Artik" subdivision, 0.5 of "Vanadzor" and "Goris" subdivisions.

From the point of view of effective organization of health care for persons deprived of their liberty, the quantitative distribution of positions of medical personnel in different subdivisions of the SNCO remains a matter of concern. A study of the information provided by the Ministry of Justice on the staffing of medical personnel shows that the SNCO subdivisions located in different Penitentiary Institutions include the same number of medical personnel.

Thus, the Order No. 30-Ն of the Minister of Justice of Republic of Armenia of 18 February 2012[93] defines the types of Penitentiary Institutions and inmate capacities, according to which the inmate capacity of "Goris" Penitentiary Institution is intended for 182 persons, "Hrazdan" Penitentiary Institution - 215, "Vanadzor" Penitentiary Institution - 240, "Vardashen" Penitentiary Institution - 339, "Artik" Penitentiary Institution - 373, "Sevan" Penitentiary Institution - 548, "Kosh" Penitentiary Institution - for 640 persons. However, the inmate capacities of these penitentiary institutions were incomparably different (for 182-548 persons) and 8 positions of medical personnel are provided, and in ‘’Yerevan-Kentron’’ penitentiary institution, which has inmate capacity of 60 persons, there are 7.5 positions of medical personnel.

It should be recorded that in order to properly organize the medical assistance and services of persons deprived of their liberty, the intended positions of the medical personnel should be defined in accordance with the requirements of the inmate capacity of a Penitentiary Institution, the prevalence of diseases and the necessary medical assistance and services.

Regarding the scope of services provided in the SNCO subdivisions, it should be emphasized that all subdivisions are licensed to provide out-patient medical services only, except for the "Hospital for the Convicted" subdivision. However, during the monitoring visit to the "Armavir" Penitentiary Institution, it was registered that 12 persons deprived of their liberty were treated in the separate in-patient department of the mentioned subdivision.

According to the information provided by the Ministry of Justice, 9 subdivisions of the SNCO provide general family medications, psychiatric, dental practice, general surgical, radiological diagnosis, including out-patient medical services of the use and prescription of medications containing narcotic or psychotropic substances. In addition to the mentioned services, a gynecological service is provided in the "Abovyan" medical subdivision..

According to the information provided by the Ministry of Justice, the positions of psychiatrists are staffed in all subdivisions of the SNCO, except for the "Goris" medical subdivision. The mentioned service was not provided due to the vacant position of the psychiatrist. As a temporary solution, according to the information provided, as of 23 February 2021, persons deprived of their liberty with mental health problems who need a psychiatrist have not been kept for 2-3 months. According to the information provided, if necessary, persons deprived of their liberty in need of psychiatric care and services can be examined by a psychiatrist sent to ‘’Goris‘’ Penitentiary Institution before the position is staffed.

[93] Order No. 30-Ն "On Defining the Types and Inmate Capacities of Penitentiary Institutions of the Ministry of Justice of the Republic of Armenia, as well Living Space for Detained and Convicted Persons and on Recognizing the Order No. 41-Ն of the Minister of Justice of the Republic of Armenia of 27 May 2008 as Invalid" of the Minister of Justice of the Republic of Armenia of 28 February 2012.

In this regard, Rule 25 of the UN ‘’Standard Minimum Rules for the Treatment of Persons Deprived of Liberty’’ (hereinafter referred to as the ‘’Mandela Rules’’) of 17 December 2015 provides that *health services must be provided by an interdisciplinary group with sufficient qualifications, including sufficient experience in the fields of psychology and psychiatry in conditions of full medical independence.*

The various subdivisions of the SNCO provide 24-hour medical assistance to persons deprived of their liberty, but usually one nurse or medical assistant is involved in the 24-hour duty. Doctors are on duty only in the "Hospital for the Convicted" penitentiary institution.

Ongoing professional education of the medical personnel of the SNCO is an important component for raising the professional qualification of the latter. Thus, according to the information provided by the Ministry of Justice, in 2020 the mid-level and senior medical personnel of the SNCO underwent a number of professional trainings. They mainly referred to the peculiarities of prevention and control of the novel Coronavirus (COVID-19) pandemic, as well as "Modern Issues of Therapy for Nurses of all Profiles", "Modern Issues of Family Nursing", "Peculiarities of the Work of a Nurse in a Disinfection Laboratory", "Improvement of X-ray Laboratories. Radiation Protection and Security "," Palliative Care for Patients".

Summing up the abovementioned, it should be emphasized that the trainings are mainly non-regular, which does not allow to ensure the continuous professional development of doctors.

There is a need for a systemic approach to proper and regular professional training of medical personnel in Penitentiary Institutions.

Referring to the capacity of medical technical equipment of the Penitentiary Institutions, it should be recorded that as a result of the direct monitoring, the subdivisions of the SNCOs located in the Penitentiary Institutions were equipped with some medical equipment and tools. However, many of them were not used due to lack of appropriate materials, accessories or necessary working conditions.

Thus, there was a centrifuge and a urine analyzer in the ‘’Armavir’’ Penitentiary Institution which were not used. The urine analyzer was not used due to absence of relevant tests. During the monitoring visit, there was no glucometer to measure blood glucose in the abovementioned penitentiary institution, only glucometer tests were available.

Therefore, based on the abovementioned, it is necessary to:

- ✓ ***Ensure a sufficient number of qualified medical personnel in the subdivisions of the SNCO;***
- ✓ ***Take steps to staff medical vacant positions;***
- ✓ ***Organize continuous measures aimed at improving the professional qualities of the medical personnel;***
- ✓ ***Take steps to obtain supplies necessary for the operation of medical devices .***

4.1.3. The state of organization of the prevention measures of the novel Coronavirus (COVID-19) pandemic

The year 2020 was full of new challenges, especially due to the widespread of the novel Coronavirus (COVID-19). Efforts to prevent it are an additional burden on the organization of medical assistance and services for the population. In this context, the medical assistance and services provided to persons deprived of their liberty were not left out of the mentioned problem.

According to the official news of the Ministry of Justice of Republic of Armenia, *the Ministry and the Penitentiary Service has developed a programme of measures necessary for the prevention of pandemic in the system, as well as in case of detection of the novel Coronavirus (COVID-19) pandemic, by which various scenarios of developments of the pandemic and appropriate response mechanisms*[94] *were observed.*

Despite the abovementioned, during the visits of the representatives of the National Preventive Mechanism to the Penitentiary Institutions, there was no new strategy or action plan for the prevention of the novel Coronavirus (COVID-19) pandemic, with a clear separation of functions.

Simultaneously, there was no clear separation of functions for the prevention of the novel Coronavirus (COVID-19) pandemic and interaction procedures between the separate subdivisions of the Penitentiary Institutions and the SNCO subdivisions located in the given institution.

During the monitoring visits, it was noted that the prevention measures against the novel Coronavirus (COVID-19) pandemic were not properly organized, which, among other things, is taking place due to the absence of a clear strategy.

At different times in 2020, depending on the prevalence of the novel Coronavirus (COVID-19) pandemic in the country, state of emergency and quarantine regimes have been established. According to the RA Government Decree No. 298-Ն "On Declaring a State of Emergency in the Republic of Armenia" of 16 March 2020, a state of emergency has been established to control the epidemiological situation due to the spread of the infection. On the 11th of September, the legal regime of the state of emergency in the territory of the Republic of Armenia was terminated and the RA Government Decree No. 1514-Ն "On Establishing Quarantine Regime due to the Novel Coronavirus (COVID-19) Pandemic" of 11 September 2020 entered into force. Due to the peculiarities of the quarantine regime, various measures and restrictions have been set.

[94] See in detail: https://www.gov.am/am/news/item/14244/ webpage, as of 31.03.2021.

During the monitoring visit to the "Armavir" penitentiary institution, a legal regime of state of emergency was established in Armenia, accordingly, the monitoring and the issues raised due to the novel Coronavirus (COVID-19) pandemic were considered in the context of that regime.

Thus, upon entering the ‘’Armavir’’ penitentiary institution, the temperature of the representatives of the National Preventive Mechanism hasn’t been measured properly, which was a mandatory condition in the context of preventing the novel Coronavirus (COVID-19) pandemic. When entering the penitentiary institution, the employee of the penitentiary institution took notes while measuirng the temperature, but not all persons’ temperature were measured and identified. Moreover, the body temperature data provided by the employee did not match the data recorded in the register. The register of the temperature measurement of the visitors of the "Armavir" penitentiary institution did not have a clear structure. In the absence of a clear requirement for separate columns to record data in them, the register has been kept at the discretion of the security staff, as well it was filled with omissions.

During the visit to the ‘’Yerevan-Kentron’’ penitentiary institution, a quarantine regime was established in the Republic of Armenia. In connection with the prevention of the novel Coronavirus (COVID-19) pandemic, when entering the territory of ‘’Yerevan-Kentron’’ penitentiary institution, the employee of the penitentiary institution was measuring the temperature by means of a non-contact (electronic) thermometer, the results of which were recorded in separate registers (for the employees and visitors of the penitentiary institution). The mentioned register had a clear structure and complied with the requirements of the legislation[95].

During the monitoring visits, the Human Rights Defende’s representatives recorded that other measures to prevent the infection had not been properly implemented. In particular, in the administrative part of "Armavir" and ‘’Yerevan-Kentron’’ Penitentiary Institutions the employees did not wear masks or wore them in violation of the established order (the masks were applied to the arms, the mask did not cover their nose (or) mouth), other anti-pandemic rules were not observed. They touched the surface of the masks, and did not maintain social distance. The same situation was registered in the regime zone of the "Armavir " penitentiary institution.

Moreover, in the corridors of the ‘’Armavir’’ penitentiary Institution there were no closed garbage cans for masks, gloves, as well as disinfectants. It is also worrisome that even if a dispenser with disinfectant liquid was attached to the wall in the separate part of the entrance to the administrative block of the ‘’Armavir’’ penitentiary institution, some employees mentioned that they used vodka to disinfect their hands. It was also reported that the only garbage can for masks and gloves used in the ‘’Armavir’’

[95] See: Form 2 of Annex 1 to the Order No. 17-Ն "On Approving the Sanitary rules of SR No. 3.1.2-001-20 used for the Prevention of the Spread of the Novel Coronavirus (COVID-19)" of the Minister of Health of Republic of Armenia of 4 August 2020 .

penitentiary institution (with appropriate marking) was located at the entrance of the administrative block.

As part of the measures to prevent the novel Coronavirus (COVID-19) pandemic, cleaning and disinfection measures were carried out in the residential areas of the Penitentiary Institutions and administrative blocks. Moreover, the cleaning works in the "Armavir" penitentiary institution were carried out once a day, after the end of the working day.

From the perspective of the situation of the prevention measures against the spread of the pandemic, the absence of a ventilation system in the "Armavir" penitentiary institution, which is a systemic problem, is a matter of serious concern and has been raised by the Human Rights Defender's Office for years. Due to the absence of a ventilation system, the air temperature in the whole area of the penitentiary institution was very high. According to the information provided, a budget allocation has already been provided for the installation of the ventilation system.

In the context of the prevention of the novel Coronavirus (COVID-19) pandemic, body temperature measurements were carried out among persons deprived of their liberty in Penitentiary Institutions. However, it should be noted that they were not carried out in accordance with the established procedure and were not regular.

Thus, paragraph 2 (7) of Annex 9 to the Decree No. 110-Ն "On Making Additions and Amendments in the Decree No. 63 of 3 May 2020" of the Commandant of Republic of Armenia of 3 June 2020 defined, that the patient's temperature should be taken in the hospital at least twice a day, and make notes on the temperature sheet, according to the information provided, among those deprived of their liberty, the temperature was measured as needed in the in-patient department of the"Armavir" penitentiary institution

In the ''Yerevan-Kentron'' penitentiary institution, the temperature of persons deprived of their liberty were measured when they visited a doctor or when they were in quarantine. Moreover, if the person deprived of liberty did not have any complaints during their quarantine, their temperature was measured as needed during their 14 days in quarantine.

Of particular concern was the provision of personal protective measures, such as masks and gloves, to persons deprived of their liberty and the staff accompanying them while moving.

Thus, the representatives of the National Preventive Mechanism in the "Armavir" penitentiary institution registered that a convicted person returning from the medical department of the health institution entered the quarantine department without a mask and no preventive measures were taken with regard to them (hand disinfection, temperature measurement, etc.).

Non-observance of the anti-pandemic rules when entering a penitentiary, not wearing masks or not disinfecting your hands contributes to the spread of the novel Coronavirus (COVID-19).

Although masks and disinfectants were available in the pharmacies of the relevant subdivisions of the ‘’Penitentiary Medical Center’’ SNCO during the monitoring visits to the Penitentiary Institutions, the employees still obtained them mainly with their own means.

Another problem has been recorded in maintaining social distance in health care rooms. Thus, in the room for interventions in the "Treatment Section’’" block of "Armavir" penitentiary institution, at the time of the visit, the daytime nurse has made intravenous injections to the persons deprived of their liberty kept in different blocks. At the time of the visit, 2 persons deprived of their liberty received intravenous injections in the abovementioned intervention room. The employee of the penitentiary institution supervised the mentioned intervention room. According to the information received, the latter is always present at all medical interventions. There is no social distance between employees or persons deprived of their liberty". The latter, being deprived of their liberty in different departments, sat side by side on a medical couch, where they received an injection. Thus, 4 persons were found at the same time at a close distance in the nurse's room; the nurse, the security guard, 2 persons deprived of their liberty, the latter without a mask. Thus, the requirements for the prevention of the novel Coronavirus (COVID-19) pandemic have not been met.

No risk groups were registered in Penitentiary Institutions within the framework of preventive measures for the novel Coronavirus (COVID-19) pandemic and dynamic control over chronic patients.

Thus, during the visit to the "Armavir" penitentiary institution, the representatives of the Human Rights Defender stated that no risk group was registered among the persons deprived of liberty, the medical personnel mainly did not have information on persons over 60, as well as on the persons suffering from chronic diseases, including diabetes, cardiovascular diseases and other diseases..

This issue is worrisome considering that according to the information provided by the Ministry of Justice, as of 30 December 2020, 21 detainees belonging to the 60 and senior age group and 55 convicted persons (76 persons in total) were kept in Penitentiary Institutions. Moreover, in 2020, 782 prisoners were in the dispensary accounting.

From the point of view of prevention of the novel Coronavirus (COVID-19) pandemic, the absence of regularly updated statistics on at-risk groups, and of medical supervision over them is unacceptable.

According to the CPT's statement on the principles of treatment of persons deprived of their liberty in the context of the novel Coronavirus (COVID-19) pandemic, *special attention needs to be paid to the special needs of persons deprived of their liberty, especially vulnerable groups and / or at-risk groups: the elderly. This includes screening tests to check for COVID-19 and providing intensive care if needed.*

In addition, persons deprived of their liberty should receive additional psychological support during this period[96].

In the quarantine department of the "Armavir" penitentiary institution, 3 cells were separated for isolation of suspected cases of the novel Coronavirus (COVID-19), which do not have windows: natural light and ventilation. **These conditions of the isolation room do not contribute to the proper organization of patients' health care.**

According to the information provided by the Ministry of Justice of the Republic of Armenia, *in order to isolate suspicious cases for the prevention of the novel Coronavirus (COVID-19) pandemic, at least 1 cell has been set aside for the isolation of persons deprived of their liberty with symptoms of the novel Coronavirus (COVID-19). (...) the number of days in the quarantine department has been extended from 7 to 14 (the number of possible days for the detection of signs of the disease).*

Despite the abovementioned, persons deprived of their liberty entering the ''Armavir'' penitentiary institution are compulsorily kept in the quarantine department for up to 7 days, after which they are distributed among the blocks.

At the time of the monitoring visit, 772 persons deprived of their liberty were kept in ''Armavir'' penitentiary institution, of which 414 were detainees, and the quarantine department has only 8 cells. As a result, despite the information provided by the Ministry of Justice, it was not physically possible to ensure the 14-day isolation of those entering the abovementioned department in the ''Armavir'' penitentiary institution. For this reason, some of the persons deprived of their liberty who entered the mentioned penitentiary institution were kept in the disciplinary cell blocks for quarantine purposes .

Thus, in case of admission of persons deprived of liberty to the Penitentiary Institution, it was not possible to provide 14-day isolation.

Only one cell was set aside for quarantine in the ''Yerevan-Kentron'' penitentiary, and one of the vacant cells was used for preventive isolation at the time of the visit. In both cells, persons deprived of their liberty were being held in quarantine at the time of the visit. Therefore, 14-day isolation may be impossible if new persons deprived of their liberty are accommodated here as well.

Taking into account the abovementioned, it is necessary to:

- ✓ ***Develop pandemic management strategy or action plan for the prevention of the novel Coronavirus (COVID-19) pandemic, clarifying the functions of different departments and collaborative work;***
- ✓ ***Establish proper control over persons entering a penitentiary institution to maintain***

[96] See: https://rm.coe.int/16809e0703 webpage, as of 31.03.2021.

anti-pandemic (preventive) measures; at least mandatory temperature measurement, disinfection and proper recording of results;

- ✓ ***In order to prevent the new Coronavirus disease, to establish strict control over the persons entering the residential area of the penitentiary institution in connection with the obligatory wearing of protective means and disinfection;***
- ✓ ***Place hand sanitizers in the regime zone, as well as closed garbage cans for used masks and gloves;***
- ✓ ***Organize cleaning works in the regime zone at least twice a day, ensuring sufficient sanitary and hygienic conditions;***
- ✓ ***Take urgent steps to introduce an artificial ventilation system in the "Armavir" penitentiary institution;***
- ✓ ***Provide penitentiary personnel with sufficient personal protective measures and disinfectants;***
- ✓ ***Provide personal protective measures to all persons deprived of their liberty transferred from other institutions to a penitentiary institution, as well as ensure their proper wearing;***
- ✓ ***Carry out accounting of a risk group towards the novel Coronavirus (COVID-19) among persons deprived of their liberty and proper medical assistance for them;***
- ✓ ***Provide proper living conditions in cells intended for isolation: natural light and ventilation;***
- ✓ ***Ensure 14-day quarantine control of persons deprived of their liberty entering a penitentiary institution.***

4.1.4. Availability of medications and expired medications

Availability of medications is an important component for the proper organization of medical assistance and services of persons deprived of their liberty in the subdivisions of the SNCO located in Penitentiary Institutions.

During the monitoring visits in 2020, the availability of medications of Penitentiary Institutions was studied. As a result, it was recorded that there were cases with insufficient quantity and limited range of medications in the Penitentiary Institutions. The medical service was mainly provided with the necessary medications for first aid.

Procurements necessary for the SNCO, including the purchase of medications, are made at the expense of the RA state budget in accordance with the procedure established by the RA Law ‘’On Procurement’’.

According to the information provided by the Ministry of Justice of the Republic of Armenia, in 2020 the SNCO acquired 517 medications and 135 medical supplies, laboratory, chemical and dental materials.

For the comparison, it should be noted that in 2019, the SNCO acquired 360 medications and 107 supplies, laboratory, chemical and dental materials.

Despite the fact that the range of medications and medical supplies has significantly increased compared to 2019, insufficient quantities of medications continue to be registered in Penitentiary Institutions.

4583 medications have been approved by Annex 9 of the Order No. 06-Ն [97] of the RA Minister of Health of 17 February 2017. **Therefore, it can be stated that the SNCO is provided with about 11.28% of the medications registered in the Republic of Armenia.**

The National Preventive Mechanism has also identified problems with the provision of the prescribed medications to persons deprived of their liberty.

Thus, as of the monitoring visit to the ‘’Armavir’’ Penitentiary Institution, it was recorded that the medications provided to the persons deprived of their liberty were not available at the time. Although the medical personnel of the mentioned department of the SNCO confirmed that the medication was sufficient according to the required quantity and range, but it was registered that the mentioned department did not have a number of medications prescribed for persons deprived of liberty, such as "Humulin", "Ciprofloxacin", "Azithromycin ", "Amoxacillin’’ and etc. There were not enough painkillers (‘’Dexalgin’’, ‘’Spazmalgon’’, etc.) as well there weren’t anti-inflammatory creams. It is worrying that the person suffering from diabetes was not given the prescribed "Insulin" ("Humulin") in the hospital. The medication mentioned at the time was not available in the subdivision for a long period of time.

The shortage of a variety of medications in the departments of the SNCO is evidenced by the large variety of medications transferred to persons deprived of their liberty. During the monitoring visits, it was found that the list of medications transferred to persons deprived of their liberty includes those that are available in the subdivision, but in limited quantities, or there are substitutes for them.

The issue of insufficient quantity and limited range of medications in Penitentiary Institutions has been repeatedly raised in individual complaints to the Human Rights Defender stating that Penitentiary Institutions are not provided with the prescribed medications.

[97] Order No. 06-Ն "On Approving the State Register of Medications Registered in the Republic of Armenia and Declaring the Order No. 25-Ն of the Minister of Health of the Republic of Armenia of 12 July 2016 Invalid’’ of the Minister of Health of the Republic of Armenia of 17 February 2017.

Non- provision of the necessary quantities and variety of medications to persons deprived of their liberty may result in the state failing to fulfill its obligation to provide adequate medical assistance to those under its control. The main directions and principles of the state policy of the availability of medication, enshrined in law, should be applied in the process of providing medical assistance and services to persons deprived of their liberty.

It is obvious that the mentioned problem should be solved systematically, that is, the purchases of medications should be organized in such a way as to add to the range of medications, in case of a medical prescription, the person deprived of liberty should be provided with necessary medical treatment without delay.

During the monitoring visits, it was found out that the persons deprived of their liberty obtain the necessary medications mainly at their own expense and (or) they are transferred by relatives. According to the information provided by the Ministry of Justice of the Republic of Armenia, the medications obtained at the expense of themselves or close relatives of persons deprived of their liberty in Penitentiary Institutions are taken in the following order: the representative of the relevant subdivision of the SNCO studies it and informs about the admissibility of the medication by means of an X-ray device, about which a corresponding entry is made in the relevant register.

However, the monitoring of the National Preventive Mechanism shows that the procedures for taking medication from close relatives were organized differently during visits to different Penitentiary Institutions.

During the monitoring visits of the National Preventive Mechanism, there were numerous cases when a person deprived of liberty was given medications by an employee of the SNCO or a person deprived of liberty kept them with them and take them without an appropriate medical prescription (including medications for injection).

Thus, the medication brought by the relatives in the ‘’Yerevan-Kentron’’ subdivision of the SNCO was not registered in the relevant registers and it was provided to the deprived persons according to the doctor's prescription form, every day or for every 5 days. Notes on the provision were made in the out-patient cards of persons deprived of their liberty.

The medications brought by the relatives in the "Armavir" subdivision of the SNCO were accepted by application, were not registered in the relevant register. Many of them were provided to persons deprived of their liberty without a doctor's prescription.

Thus, the absence of appropriate legal arrangements for unified, clear mechanisms for the administration of medications brought by relatives in Penitentiary Institutions and their non-registration in the relevant registers leads to a discretionary approach to the administration of

medications by the medical personnel, as the use of medications and circulation becomes uncontrollable, which is unacceptable.

It should be noted that the list of prohibited items, subjects, and foodstuffs received by parcels and packages kept or received by detained and convicted persons, defined by Form No. 2 of the Annex to the RA Government Decree No. 1543- Ա of 3 August 2006 was supplemented by the amendment of 19 March 2020 with *a ban on any type of medications, unless there is a relevant doctor's instruction.*

It is also problematic that during the monitoring visits to the Penitentiary Institutions, expired medications were also registered in the subdivisions of the SNCO.

Thus, during the monitoring visit to ‘’Yerevan-Kentron’’ penitentiary institution, six vials of expired "Dexamethasone" were found in the subdivision of the SNCO located there. According to the medical personnel, the expired medication was brought by the relatives for one of the persons deprived of liberty. The person deprived of liberty was transferred to another penitentiary institution at the time of the visit, but the medication was kept in the Safe without supervision over the expiration date.

This is due to the fact that there are no mechanisms for the registration of medications brought by relatives, as well as the provision of medications provided by relatives in case of transfer or release of a person deprived of liberty to another penitentiary institution.

As for the control over the expiration dates of the medication received from the SNCO, it should be noted that strict control was exercised in the subdivision located in the ‘’Yerevan-Kentron’’ penitentiary institution of the SNCO. Three months before the expiration of the deadlines, the SNCO was notified by the protocol.

Therefore, based on the abovementioned, it is necessary to:

- ✓ ***Improve the process of providing medications to persons deprived of their liberty as needed by expanding the list of necessary medications in the subdivisions of the SNCO and by increasing the number of the latter;***
- ✓ ***Develop an alternative flexible mechanism for obtaining medications, which will ensure that they are provided to persons deprived of their liberty without loss of time, as needed;***
- ✓ ***Establish proper control over the circulation of unknown, as well as expired medications, including their use, excluding any such practice;***
- ✓ ***Develop mechanisms for the registration of medications brought by relatives, as well as the provision of medications brought by relatives in case of transfer or release of a person deprived of liberty to another penitentiary institution;***
- ✓ ***Supervise the procedure of receiving and registering the medications in the Penitentiary Institution and handing over the person deprived of liberty.***

4.1.5. Problems related to the expired medications and spoilage of medical waste in Penitentiary Institutions

In order to ensure hygienic anti-pandemic safety and to protect the environment, it is necessary to properly organize the safe use, collection, disinfection and evacuation of medical waste in Penitentiary Institutions, i.e. its transfer and destruction.

During the monitoring visits to the Penitentiary Institutions in 2020, problems related to the collection, disinfection and evacuation of medical waste were recorded.

Despite the fact that according to the information provided by the Ministry of Justice of the Republic of Armenia, on the 1st of March, 2020, a contract was signed between the SNCO and "ECOPROTECT" LLC for the provision of medical waste spoilage services in Penitentiary Institutions, medical waste in the ‘’Armavir" penitentiary institution. including expired medications, which are not suitable for use, were thrown away with household waste without complying with the provisions of the law.

Moreover, during a visit to the ‘’Armavir’’ Penitentiary, medical sharp-edged waste (bandages, other used medical supplies, including the sharp-edged ones) was collected and stored in separate packages in plastic bags without appropriate markings.

Medical personnel in SNCO subdivisions remain unaware of medical waste spoilage procedure and as a result sanitary and hygienic norms of medical waste collection are not observed. The legal requirements for expired medication and medical waste spoilage have not been met, which is a matter of great concern.

Unlike the "Armavir" subdivision of the SNCO, during the monitoring visit it was registered that the spoilage of medical waste in the ‘’Yerevan-Kentron’’ penitentiary institution was carried out by a specialized organization on the basis of a contract signed with the SNCO.

In accordance with clause ‘’d’’ of paragraph 3 (1) of Annex 1 approved by the Order No. 03-Ն "On Approving the Norms of Hygienic-Anti-Pandemic Requirements for the Use of Medical Waste" of the Minister of Health of the Republic of Armenia of March 4, 2008, s*harp-edged wastes are non-reusable or recyclable syringes, injection needles, suture needles, screws, other blades, lancets, saws, knives, broken or unbroken glass, vials, nails, etc.* And according to subparagraph 3 of the same Paragraph, *pharmaceutical wastes are expired and unusable medications, vaccines, serums and other pharmaceutical products.*

According to paragraph 21 of the said Annex, s*harp-edged wastes, at the site where it has been used, are placed in a solid container (e.g. plastic bottles, metal or rigid plastic containers) immediately, bearing a biohazard and marked "Careful Sharp-Edged Item" on it. It is forbidden to double-close the syringe needles and (or) disinfect them before placing them.*

According to paragraph 25 of the Annex, *all types of medical waste are hermetically closed after being placed in the containers, and the pathological-anatomical, microbiological, acute-chemical wastes are sealed, after which the employee responsible for collecting, placing, closing and transporting medical waste fills in a label. indicating the type of medical waste placed in it, the specific time, day, month, year of its placement in the container, its name and surname, as well as the name of the organization. The completed label is attached to the container, which is immediately transported to a special area for temporary storage of medical waste. The possibility of separating the filled label from the container is excluded.*

Therefore, based on the abovementioned, it is necessary to:

- ✓ ***Ensure the process of medical waste collection and neutralization in Penitentiary Institutions, according to the procedure enshrined by the Order No. 03-Ն"On Approving the Sanitary Rules and Norms No. 2.1.3-3 ‘’Hygienic-Anti-Pandemic Requirements for the uUse of Medical Waste" of the Minister of Health of the Republic of Armenia of 4 March 2008;***
- ✓ ***Develop clear procedures for medication spoilage in Penitentiary Institutions and control mechanisms over them.***

4.1.6. Organization of medical examinations

An important component of ensuring the right to health protection of persons deprived of their liberty is the organization of professional medical consultations, preventive laboratory-instrumental examinations/screening according to medical instructions.

Discussion of the issues recorded during the monitoring visits to Penitentiary Institutions in 2020 and individual complaints addressed to the Human Rights Defender revealed that the opportunity for persons deprived of their liberty to undergo medical examinations remains limited.

Despite the fact that as a result of the reforms implemented in the field, there is no need to apply to the Ministry of Health for medical examinations of persons deprived of their liberty in order to receive a referral for free medical assistance guaranteed by the state, however, their organization was sometimes difficult. These obstacles were mainly due to restrictions on the movement of persons deprived of their liberty during the outbreak of the pandemic and martial law in 2020. Under these conditions, medical examinations were organized in the medical facilities of the healthcare system in cases of urgent need.

In order to undergo specialized professional consultations or laboratory-instrumental examinations, it was necessary to use services of medical institutions providing the licensed out-patient polyclinic medical assistance and services of, as well as other medical institutions operating in health care

institutions territorially closer to the Penitentiary Institutions. Pursuant to paragraph 22 of the Annex to the RA Government Decree No. 825- Ն of 26 May 2006, *in order to use specialized services, including laboratory-instrumental examinations, detained and convicted persons kept in a penitentiary institution are attached to the medical institution providing the licensed out-patient and polyclinic medical assistance and services, territorially closer to the penitentiary institution on the basis of the data provided by the penitentiary service, according to the application of the director of the SNCO, to which the list of relevant persons is attached,*

During the monitoring visits, however, it was noted that in some cases the persons deprived of their liberty were not attached to the medical institution providing the licensed out-patient polyclinic medical assistance and services, territorially closer to the penitentiary institution.

Thus, during the visit to the "Armavir" penitentiary institution, a study revealed that not all persons deprived of their liberty were attached to the medical institution providing the licensed out-patient polyclinic medical assistance and services. in particular, to the polyclinic service of "Echmiadzin Medical Center" CJSC.

According to the representative of the subdivision located in the mentioned institution of SNCO, there were difficulties in registering the persons deprived of liberty in the abovementioned medical center due to the absence of passport or public service number in their personal file, as well as the large-scale transfer of persons deprived of liberty (frequent transfer from one penitentiary institution to another, two-month term of detention, etc.).

Problems were also recorded with the provision of appropriate attachments of polyclinic services for the medical assistance of foreigners deprived of their liberty, which was due to the fact that they did not have a temporary residence permit. As a result, it was not possible to organize comprehensive specialized professional consultations and examinations of persons deprived of their liberty at the polyclinic level.

The abovementioned problem was mainly conditioned by the absence of effective cooperation between the abovementioned subdivision of the SNCO and the Department of Social, Psychological and Legal Affairs of the Penitentiary Institution.

In one of the individual complaints on the same issue, it was mentioned that on the 12th of November, 2019, a person deprived of liberty in the "Armavir" penitentiary institution was advised to have a sonographic examination 2 months later, in January of 2020. However, its organization within the framework of free medical service guaranteed by the state was delayed until 21 April 2020, it was organized only three months later.

In connection with the abovementioned issue, it should be emphasized that according to Article 20 of the RA Law ‘’On Medical Assistance and Services for the Population’’, *in cases defined by law, persons*

deprived of liberty, arrested, detained, as well as persons serving sentences in prisons have the right to receive medical assistance and service in the manner prescribed by law.

In accordance with Rule 40.3 of the ''European Prison Rules'' (hereinafter referred to as the European Prison Rules)[98], reviewed on the 1st of July, 2020 by the Committee of Ministers of the Council of Europe (Recommendation No. 2), adopted on Recommendation No. 2 of the Council of Europe (2006), *prisoners shall have access to health services without discrimination on the basis of their legal status,* and Rule 46.1 states *that persons deprived of their liberty requiring special care should be transferred to specialized facilities or civilian medical institutions when such treatment is not available in places of detention.*

According to Article 24 1 of the Mandela Rules, *it is the responsibility of the state to ensure the right to health care for persons deprived of their liberty. Public health standards should apply to persons deprived of their liberty, they should have access to the necessary health services free of charge, without discrimination based on their legal status.* According to paragraph 2 of the same Rule*, health services should be organized in close cooperation with the bodies involved in the field of public health, in order to ensure the continuity of treatment, including in cases of HIV, tuberculosis, other infectious diseases, as well as drug addiction*[99].

The European Court of Human Rights in its judgments on the Republic of Armenia, referring to the State's positive obligation to provide adequate medical assistance to persons deprived of their liberty, have noted that *Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the European Convention) implies guarantee of the State to grant physical immunity to persons deprived of their liberty., including the obligation to protect them through the provision of necessary medical assistance*[100].

According to the 2015 Thematic Report of the European Court of Human Rights, *implementation of this obligation of the State is more important, since persons deprived of their liberty are dependent on the authorities, conditioned by grounds of their legal status. Any action or lack of action of the latter will most likely have a major impact on the physical well-being of persons deprived of their liberty*[101].

The CPT has also referred to the importance of the right to medical assistance for persons deprived of their liberty. *According to the CPT, persons deprived of their liberty shall have access to medical*

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[98] See: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016809ee581 webpage, as of 31.03.2021.

[99] See: https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf webpage, as of 31.03.2021.

[100] See: Judgement made on the 15th of June, 2010 on the case of *''Ashot Harutyunyan v. Armenia''*, Application no. 34334/04, Para. 103; Judgement made on the 31st of March 2015 on the case of *''Davtyan v. Armenia''*, Application no. 29736/06, Para. 80.

[101] See: https://www.echr.coe.int/Documents/Research_report_health.pdf webpage, as of 31.03.2021.

assistance in a well-equipped civil hospital or medical facility/hospital of the place of detention. At the same time, the medical service should be able to organize the provision of medical assistance and health care, as well as provision of special diet for persons deprived of their liberty in conditions similar to that of civil medical facilities[102].

Domestic and international provisions on the protection of the right to health of a person deprived of liberty provides the State's obligation to take the necessary measures to provide adequate medical assistance and services in the place of deprivation of liberty, and in case of impossibility of provision of medical assistance it should be organized in the medical institutions of the relevant healthcare authorities.

In terms of ensuring the right to health care for persons deprived of their liberty an important issue is receiving treatment and undergoing examination at their own expense at the preferred doctor.

Complaints addressed to the Human Rights Defender and private interviews with persons deprived of their liberty indicate that there are cases when applications addressed to the competent authorities to use the services of their preferred doctor at their own expense have been rejected or the transfer of persons deprived of their liberty to a medical facility of the healthcare system for necessary examinations and consultations was delayed due to a lack of officers to organize the protection of their safety and security.

Thus, in January 2020, a person deprived of liberty applied to the administration of ''Nubarashen'' penitentiary institution for medical examination at ''Nork-Marash'' Medical Center in connection with cardiovascular problems, in order to receive the necessary medical assistance at their own expense. The SNCO allowed them to be transferred to the abovementioned medical center only on 18th of March, 2020, however, the transfer was not carried out conditioned by the novel Coronavirus (COVID-19) pandemic, as due to the state of emergency declared by the Government of the Republic of Armenia on the 16th of March, 2020, the medical examinations were postponed. On the 3rd of July, 2020, the person deprived of liberty was taken to the''Hospital for the Convicted'', where they were examined and medication-assisted treatment was prescribed. The examination of the latter was not organized by the doctor of their choice and he was released in August 2020.

The legal relations related to the use of the professional services of the doctor of the civil medical facility of their choice at their own expense are regulated by the RA Government Decree No. 825-Ն of 26 May 2006. Pursuant to paragraph 101 of the Annex to the abovementioned Decree, *every detained and convicted person has the right, in accordance with the established requirements, to use the professional services of a civil medical facility at their own expense, regardless of the availability of similar medical services in the SNCO, including penitentiary institutions.*

[102] See: the 3rd General Report on CPT Activities, for the period of 1 January to 31 December 1992, at https://rm.coe.int/1680696a40 webpage, as of 31.03.2021, paragraphs 36, 38.

Thus, the relevant infrastructure of the Ministry of Justice of the Republic of Armenia, including the subdivisions of the SNCO, must ensure the right of persons deprived of their liberty to use the services of doctors of their choice at their own expense.

Necessary examinations of persons deprived of their liberty must be organized in a timely manner without undue delay.

4.1.7. Transfer of persons deprived of their liberty to the "Hospital for the Convicted" subdivision of SNCO or to medical facility of healthcare system

In order to ensure the right to health care for persons deprived of their liberty, there is a need to transfer them to a medical facility of the healthcare system conditioned by the small scale of involvement of narrow field specialists and limited opportunities of the the provision of medical assistance and services in the subdivisions of the SNCO,.

In 2020, individual complaints were addressed to the Human Rights Defender regarding the transfer of convicted persons to the "Hospital for the Convicted" subdivision or a medical facility of the healthcare system on medical grounds. During the monitoring visits, persons deprived of their liberty also raised issues related to this.

The subdivisions of the SNCO located in Penitentiary Institutions, with the exception of the "Hospital for the Convicted" subdivision, are licensed only for the provision of out-patient services.

Therefore, in case of the need for in-patient examination and treatment, the person deprived of liberty is transferred to the "Hospital for the Convicted" SNCO or to medical facilities of the healthcare system.

In practice, the cases have been registered when in-patient examination and treatment of a person deprived of liberty, according to the medical indication, has been organized with delays

Thus, on the 1st of May, 2020, a person deprived of liberty in the ‘’Armavir’’ Penitentiary Institution was examined by a rheumatologist at the ‘’Erebuni’’ Medical Center, underwent the necessary examinations, and as a result, they were diagnosed with Bechterew's disease and viral Hepatitis C. Medication was prescribed, followed by a double consultation 2 months later. After starting the treatment, on the 18th of May, their health condition deteriorated sharply, and they were taken to the ‘’Erebuni’’ Medical Center. However, the person deprived of their liberty due to the novel Coronavirus (COVID-19) pandemic was not admitted to the ‘’Erebuni’’ Medical Center, and payments were required to undergo the appropriate course of treatment at the‘’Artmed’’ Medical Center. The person deprived of liberty for non-payment of the required payments was returned to the Penitentiary Institution and went on a hunger strike. The hunger strike ended a day later. However, only a month later, on the 19th of June,

2020, the person was transferred to the ‘’Hospital for the Convicted’’ for in-patient examination and treatment.

In another case, the person deprived of liberty was in the "Armavir" penitentiary institution since 20 June 20 2019, had permanent headaches and a knee injury. As a result of the Human Rights Defender's intervention, on the 19th of November, 2019, the latter received a thorough professional consultation at the ‘’Echmiadzin’’ Medical Center. On the 17th of December, 2019, a neurologist-traumatologist at the‘’Astghik’’ Medical Center examined the person deprived of liberty and diagnosed a *"rupture of the middle meniscus of the left knee joint, synovitis?"* On the 19th of December, 2019, a person underwent magnetic resonance imaging of the left knee at the ‘’Astghik’’ Medical Center as part of free state-guaranteed medical assistance and services to clarify the diagnosis, as a result of which they underwent knee surgery. They provided a relevant referral on the 2nd of March, 2020, to undergo medical intervention in the framework of free, state-guaranteed medical assistance and services, but the surgery was performed on the 18th of July, 2020, at the ‘’Artmed’’’ Medical Rehabilitation Center.

That is, the surgery was performed only 6 months after its indication and as a result of the Human Rights Defender's intervention. It should be noted that in the abovementioned case, the person's medical intervention was organized about 1 year and 1 month after receiving the complaints.

Repeated practice of delaying the organization of indicated medical interventions is unacceptable, as untimely organization of treatment of the disease can have irreversible consequences.

As a result, complaints to the Human Rights Defender and monitoring visits revealed the problems related to vehicles adapted for transporting persons deprived of their liberty to medical facilities of the healthcare system. At the same time, there were difficulties with the access to the ambulance service.

Thus, a person deprived of their liberty with mobility impairments kept in the ‘’Armavir’’ penitentiary institution has at least twice refused to be transported to a medical facility of the healthcare system in a car intended for the transportation of persons deprived of liberty, which is not adapted for transportation of persons with mobility impairments, and there was no access to the ambulance service due to the novel Coronavirus (COVID-19) pandemic.

A person deprived of their liberty in the ‘’Armavir’’ Penitentiary Institution was diagnosed with *"destructive-degenerative changes of the lumbar spine, spondylosis, herniated discs, hemangiomas, cystosis of the right lateral part of the neck",* an ultrasound examination of the neck was performed on the consultation of an oncologist. On the 21st of April, 2020, within the framework of the free medical service guaranteed by the state, according to the previously obtained agreement, it was proposed to transport the persons deprived of liberty in a car intended for transportation of the RA Ministry of Health to the "National Oncology Center after V. A. Fanarjyan” to receive the abovementioned examination and consultation, which the latter refused, demanding to be transported in a special car of the ambulance service with the option to lie. On the 13th of May, 2020, the person deprived of liberty was again offered

to be transferred to the "National Oncology Center after V. A. Fanarjyan" for examination and consultation, which the latter again refused.

In another case, a person deprived of liberty who was diagnosed with *" Bechterew's disease, functional dysfunction of the spine and joints II-III, secondary coxarthrosis of the pelvic-femoral joints"* was was moving in a wheelchair, but had to be transported to a medical facility of the healthcare system for medical examination but an unsuitable vehicle was provided for transportation, which the latter refused.

According to the information provided by the Ministry of Justice of the Republic of Armenia, in case of necessity of transfer of persons deprived of their liberty from the territories they are attached to, who are kept in the Penitentiary Institutions located in the regions of the Republic of Armenia, vehicles of ambulance service implement their transfer to medical facilities of the healthcare system within the framework of free medical assistance guaranteed by the state.

At the same time, the monitoring revealed that the calls to the ambulance service were responded with delays. the staff of the mentioned service arrived long after the calls due to the overcrowding caused by the novel Coronavirus (COVID-19) pandemic.

According to the information provided by the Ministry of Justice of the Republic of Armenia, the issue of purchasing vehicles adapted for the transportation of persons deprived of their liberty may be considered in case of allocating additional funds, which is not objectively possible at the moment due to the new economic situation caused by the novel Coronavirus (COVID-19) pandemic. In addition, the issue of changing the existing model of organizing the accompaniment of persons deprived of their liberty is under discussion, within the framework of which the issue of distribution of material and human resources necessary for the accompaniment of persons deprived of their liberty was discussed.

Based on the abovementioned, it is necessary to organize the necessary medical assistance for persons deprived of their liberty in a timely manner, without undue delay, in the in-patient conditions of the "Hospital for the Convicted" subdivision of the SNCO or in the medical facilities of the healthcare system.

4.1.8. Organization of psychiatric care in Penitentiary Institutions

The protection of the mental health of persons deprived of their liberty is crucial in Penitentiary Institutions. Mental health prevention, as well as the proper exercise of the right to psychiatric care for persons deprived of their liberty, is an important part of medical assistance and service in the abovementioned community.

The monitoring visits to Penitentiary Institution and the discussions of individual complaints addressed to the Human Rights Defender revealed problems with the proper organization of the provision of psychiatric services in Penitentiary Institutions.

Despite the fact that the medical personnel of the SNCO subdivisions, in general, are staffed with psychiatrists, the ‘’Goris’’ subdivision still does not have a psychiatrist. Meanwhile, persons deprived of their liberty registered in dispensaries with mental health problems were detained in the mentioned Penitentiary Institution.

According to the information provided by the RA Ministry of Justice on the 23rd of February, 2021, due to the vacanct position of a psychiatrist in the "Goris" medical subdivision, the mentioned service is not provided at that moment. It is worrying that the absence of a psychiatrist in the mentioned Penitentiary Institution is conditioned by the lack of psychiatrists in Syunik region (only one psychiatrist), as a result of which the latter is not physically able to regularly visit ‘’Goris’’ penitentiary institution. According to the Ministry of Justice, the ‘’Goris’’ penitentiary institution, mentioned as a temporary solution, has not detained persons deprived of their liberty with mental health problems who need psychiatric supervision. According to the information provided, if necessary, persons deprived of their liberty in need of psychiatric examination may be examined by a psychiatrist sent to ‘’Goris’’ enitentiary institution before the position is staffed.

Thus, in 2020, persons deprived of their liberty with mental health problems and registered in dispensaries and kept in the ‘’Goris’’ penitentiary institution were not properly supervised..

According to the information provided by the Ministry of Justice of the Republic of Armenia, in 2020 the number of persons deprived of their liberty with mental health problems registered in dispensaries and detained in Penitentiary Institutions was 249, 116 of whom received in-patient treatment in the psychiatric department of the ‘’Hospital for the Convicted’’ subdivision of SNCO. These indicators continue to be high, moreover, despite the fact that the total number of persons deprived of their liberty in penitentiary institutions has decreased (in 2019 it was 2209, and in 2020 - 1967). It should be noted that in 2019, the number of persons deprived of their liberty registered in dispensaries with mental health problems and kept in Penitentiary Institutions was 238, 89 of whom received in-patient treatment in the psychiatric department of the ‘’Hospital for the Convicted'' subdivision of SNCO.

Thus, about 12.7% of the total number of persons deprived of their liberty have mental health problems, of which about 46.6% needed in-patient treatment by 2020. In 2019, the number of persons deprived of their liberty with mental health problems was about 10.7% of the total number of persons deprived of their liberty, of which about 37.4% needed in-patient treatment

The increase in the number of indicators on persons with mental health problems in Penitentiary Institutions may also be due to the staffing of the positions of psychiatrists and regular visits.

Considering the abovementioned, it is possible to organize a proper medical examination of persons deprived of their liberty while being admitted to Penitentiary Institutions, which includes assessing the mental health of a person, establishing control over it, and organizing preventive measures, taking into

account the environment or psychological condition in which the person finds himself. from the moment of deprivation of liberty.

Mental health screening of persons deprived of their liberty while being admitted to Penitentiary Institutions is not implemented due to absence of appropriate programmes.

As for the assessment of mental health, it should be noted that according to paragraph 11 of the Annex to the RA Government Decree No. 825-Ն of 26 May 2006, *the medical examination includes the preliminary medical examination of detained or convicted persons, which includes the external examination., as well as psychiatric certification.* At the same time, paragraph 60 of the same Annex *stipulates that the psychiatric care of convicted persons in the SNCO is provided by out-patient and in-patient ways. Psychiatric care for detainees is provided by the RA Law "On Psychiatric Care and Services", in accordance with the procedure established by the RA Government Decree No. 350-Ն of 1 April, 2010, taking into account the peculiarities due to the status of detained and convicted persons and defined by this procedure.*

European Prison Rules (Rules 42.1 and 42.3) provide as follows: *"The medical specialist or the qualified nurse accountable to them should examine each person deprived of their liberty as soon as possible after admission. When examining a person deprived of liberty, the medical specialist or the qualified nurse, reporting to them, should pay special attention to the following:*

- *Diagnose physical or mental illness and take all necessary measures to treat them, as well as to continue treatment already underway (b).*
- *Deal with withdrawal symptoms due to medication, drug or alcohol use (d).*
- *Identify psychological or other stress resulting from deprivation of liberty (e)*[103].

According to the information provided by the Ministry of Justice of the Republic of Armenia, it is planned to introduce programmes for assessing their mental health, preventing its deterioration, conducting screening examinations for persons deprived of their liberty, as well as improving the quality of psychological services provided to persons deprived of their liberty. These are the minimum conditions that need to be guaranteed in terms of maintaining a person's mental health.

It is noteworthy that the abovementioned reform structure is already vested by the RA Government Decree No. 1717-Լ "On Approving the Strategy for 2019-2023 of the Republic of Armenia in Penitentiary-Probation Sphere, the Programme of Measures for its Implementation in 2019-2023, the Financial Evaluation of the Programme and the Procedure for Organizing and Implementing the Activities of the Coordinating Council for the Implementation of the Programmes" of 28 November 2019.

[103] See: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016809ee581 webpage, as of 31.03.2021.

It should be noted that despite the fact that psychiatrists and persons deprived of their liberty are included in the subdivisions of the SNCO, in 2020 the Human Rights Defender received complaints about the improper organization of treatment of persons deprived of their liberty with mental health problems.

Thus, a person deprived of liberty in the ‘’Vanadzor’’ penitentiary institution was diagnosed with "emotional-unstable personality disorder." During 2020, the latter received treatment in the psychiatric department of the "Hospital for the Convicted" penitentiary institution. After completing their in-patient treatment, they were transferred to a detention facility to continue their medical treatment on an out-patient basis. However, the medication given to the person deprived of liberty was not provided properly; their health condition deteriorated, as a result of which two months after his discharge from the hospital, the person deprived of their liberty was transferred to the ‘’Hospital for the Convicted’’ for in-patient examination through the mediation of the Human Rights Defender.

Thus, the person deprived of liberty with mental health problems did not receive proper psychiatric control, i.e. they did not receive the prescribed medical treatment for about 2 months.

Taking into account the abovementioned, the studies of the National Preventive Mechanism conclude that adequate psychiatric care is not provided to persons deprived of their liberty with mental health problems in Penitentiary Institutions, and their transfer to a specialized department is delayed.

In-patient treatment of persons with mental health problems is organized in the "Hospital for the Convicted" penitentiary institution, where there are no appropriate departments or conditions for women or juveniles deprived of their liberty. Therefore, if necessary, their treatment should be organized in psychiatric organizations of the healthcare system.

The possibility of ensuring the right to the necessary medical assistance for persons deprived of their liberty was referred to in the Minimum Standard Rules for the Treatment of Deprived Persons, adopted by the First UN Congress on the 30th of August, 1955, according to Article 22 *Disabled patients deprived of their liberty in need of specialist service should be transferred to specialized medical institutions or civil hospitals*[104].

In the case of *‘’Akhmetov v. Russia’’*, the European Court of Human Rights noted that *the authorities had taken steps to provide radical treatment outside the penitentiary system, but given the circumstances of the case, such measures were not provided with sufficient urgency.* Moreover, the European Court added *that given the seriousness and complexity of the person's condition, the authorities should have realized the irreversibility of the danger posed by the delay in receiving medical assistance. Therefore, the latter should have initiated the discussion of the issue of medical assistance in a civil hospital from*

[104] See: https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf webpage, as of 31.03.2021.

the moment of receiving such a proposal, and not wait for more than a year for the results of the examination of the special medical commission[105].

It should be noted that in 2020, the issue of the possibility of organizing psychiatric care for persons deprived of their liberty in psychiatric establishments of the healthcare system became a subject of discussion in some cases.

As a result of summarizing the complaints of persons deprived of their liberty, problems continue to be stated during the organization of in-patient treatment of persons with mental health problems in the "Hospital for the Convicted" penitentiary institution.

Thus, in the psychiatric department of the "Hospital for the Convicted" subdivision of the SNCO, patients deprived of their liberty registered in other departments continue to be kept together, who live together, use the common bathroom, toilet, etc.

The psychiatric hospital does not have a sufficient number of junior and mid-level medical workers to establish medical control over persons deprived of their liberty with mental health problems. According to the information provided by the Ministry of Justice, the department employs 2 psychiatrists, 2 medical assistants and 1 nurse matron. During the night, the department does not have medical personnel, as well as no security guard is on duty.

In this context, the involvement of persons without psychiatric education or in-service training in the on-duty medical team performing night shift at the ‘’Hospital for the Convicted’’ (1 doctor and 1 medical assistant are included) remains a concern.

During the monitoring visits persons deprived of their liberty with mental health problems, as well as all other persons receiving medical assistance and services, do not consent to receive out-patient treatment, examination, medical intervention or in-patient care in Penitentiary Institutions and are not informed as patients about their rights.

According to the information provided by the Ministry of Justice, a medical subdivision located in the "Hospital for the Convicted" penitentiary institution of SNCO, where persons deprived of their liberty with mental health problems receive treatment, has developed an agreed-upon notification procedure. A special information sheet is filled out, with which the persons deprived of their liberty get acquainted with the treatment process and the medications used. According to the information provided by the Ministry of Justice, persons deprived of their liberty who were sent to in-patient treatment by a court

[105] See: Judgement made on the 1st of April, 2010 on the case of *‘’Akhmetov v. Russia’’,* Application no. 37463/04, Para. 83.

durling receive treatment within the framework of compulsory treatment. And those who refuse in-patient treatment continue the treatment process in Penitentiary Institutions on an out-patient basis.

It is a matter of concern that involuntary treatment procedures aren't initiated towards persons who are deprived of their liberty with mental health problems in need of in-patient treatment and who do not consent to in-patient treatment and they are transferred to a place of serving the sentence to receive treatment on an out-patient basis.

It turns out that informed consent for out-patient treatment is not a mandatory condition and it is not important how the latter is treated under these conditions, which is inadmissible.

According to the Ministry of Justice, the programme of the Council of Europe ''Strengthening the Protection of Human Rights in the Prisons of Armenia'' targeted the procedure for obtaining informed consent of persons receiving treatment in Penitentiary Institutions, including mechanisms for presenting their rights to the patients. Accordingly, a draft legal act has been developed.

It should be noted that according to paragraph 25 of part 1 of Article 3 of the RA Law ''On Psychiatric Care and Services'', *the informed consent is defined as the consent given by a person with a mental health problem, based on information provided in a language that is understandable, fully objective, accessible to them.* According to part 1 of Article 17 of the same law, *psychiatric care and service is provided to a person with a mental health problem, and in the presence of a legal representative, with the written informed consent (application) of the legal representative, except in cases provided by this law.* The patient may be involuntarily treated only on the basis of a relevant court decision.

According to paragraphs 16-17 of the Annex to the same Law, *the person admitted to a psychiatric organization, and in case of legal representative, also the legal representative, within one calendar day after being admitted by a psychiatrist, are informed about the rights and freedoms of a person with mental health problems, their limitations, such as the nature of the mental disorder, the purpose of the treatment offered, the methodology, the duration, the side effects, the expected outcomes, the refusal of psychiatric care, the appropriate entry in the mental health record of the person with the mental health problem. The fact of informing a person with a mental health problem in accordance with paragraph 16 of this Procedure shall be confirmed by submitting an information leaflet provided by this Law. The information leaflet consists of two copies, which are signed by the person with the mental health problem, and if there is a legal representative, it is also signed by the legal representative and by the responsible for the notification. One copy of the information leaflet is given to the person with the mental health problem, and if there is a legal representative, with due notice, the information leaflet is also given to the legal representative, and the other copy is attached to the medical record*.

Part 4 of Article 5 of the RA Law "On Psychiatric Care and Services'' defines that *a person admitted to a psychiatric organization, and in the presence of a legal representative, a legal representative, shall be*

informed by a psychiatrist of the rights and freedoms of a person admitted to a psychiatric organization and about their limitations.

By the Order No. 16-Ն of the Minister of Health of the Republic of Armenia of 7 August, 2018[106], the information procedure and leaflet form was established, **but the abovementioned information leaflet is not used in the "Hospital for the Convicted" penitentiary institution. An application form was developed in the mentioned subdivision of the SNCO, which is used for obtaining consent for in-patient treatment. This document does not include a complete package of information on the rights of persons with mental health problems.**

Thus, the relevant provisions of the RA Law ‘’On Psychiatric Care and Services’’ and the Order No. 16-Ն of the Minister of Health of the Republic of Armenia of 7 August 2018 are not observed.

An important component of medical assistance and proper service in penitentiary institutions is the protection of medical confidentiality.

During the monitoring visits carried out by the National Preventive Mechanism, it was noted that the penitentiary officers were informed about the fact that persons with mental health problems were taking psychotropic drugs. Moreover, the penitentiary officers also control the provision of medications and the process of receiving medications by the patients.

From the point of view of medical confidentiality, it is inadmissible for the penitentiary officers to be informed who is receiving psychotropic drugs, moreover, to participate in that process.

Special attention should be paid to the treatment of persons with mental health problems in Penitentiary Institutions, the main component of which is medication-assisted treatment.

In its reports, the World Health Organization states that in order to manage mental health problems, it is necessary to balance the following three essential components:

- *Pharmacotherapy,*
- *Psychotherapy,*
- *Psychosocial Rehabilitation*[107].

[106] Order No. 16-Ն "On Approving the Format of the Rights Awareness Sheet of the Person in the Psychiatric Organization and on Recognizing the Order No.14 of the Minister of Health of the Republic of Armenia of 29 July 2010 Invalid" of the Minister of Health of the Republic of Armenia of 7 August 2018.

[107] See: The World Health Report, The World Health Report, 2001, available at: https://www.who.int/whr/2001/en/ webpage, as of 31,03. 2021, pages 59-60.

The results of the monitoring visits show that the Penitentiary Institutions do not provide psychotherapeutic measures for persons with mental health problems, and the psychosocial rehabilitation measures are insufficiently organized.

Despite the fact that positions of psychologist are provided in the social, psychological and legal departments of Penitentiary Institutions, they are insufficient. At the same time, psychologists do not receive training in the organization of psychotherapeutic activities, there is no dynamic control of persons at risk and special psychological measures are not carried out.

Reference was made to the treatment of persons with mental health problems in Penitentiary Institutions in a report submitted to the Estonian Government on the visit of the CPT from 27 September to 5 October 2017, according to paragraph 63, *in addition to medication-assisted treatment, patients should benefit from a number of other out-of-cell entertainment (occupational) and therapeutic activities* [108].

The inclusion of only psychotropic drugs in the treatment plan for persons with mental health problems cannot be considered effective without a combination of psychotherapeutic and psychosocial rehabilitation measures.

It should also be noted that sometimes there is a need to carry out restraint measures with regard to persons with mental health problems.

According to the information provided by the Ministry of Justice, in 2020, 2 cases of the use of drug-induced sedation were registered in the psychiatric department of the "Hospital for the Convicted" of the SNCO with regard to persons deprived of liberty with mental health problems. No mechanical and seclusion measures were not taken during this period.

It should be emphasized that according to paragraph 44 of the 3rd General Report on CPT Activities, *the treatment of aggressive patients with mental disorders should be carried out under strict supervision, providing patient care and, if necessary, combining it with the use of sedatives. The use of physical restraint measures should be justified only in special cases, and if such a measure has been suggested, either the direct instruction of a doctor or their approval is required. The use of physical restraint measures should be stopped at the earliest opportunity. They should never be used or extended as a sanction* .

[108] See: https://rm.coe.int/168098db93 webpage, as of 31.03.2021.

In case of using physical restraint methods, it is necessary to make an entry both in the patient card and in the relevant register, indicating the beginning and end of the use of the method, as well as the circumstances of the case and the reasons for using such methods[109].

Taking into account the abovementioned, it is necessary to:

- ✓ ***Take steps to provide psychiatric specialists in all subdivisions of the SNCO and to ensure the opportunity to use this service;***
- ✓ ***Organize the necessary psychiatric medical assistance for persons deprived of their liberty in time and without undue delay in the "Hospital for the Convicted" subdivision or in the medical facilities of the healthcare system;***
- ✓ ***Develop programmes to assess and to prevent the mental health of persons deprived of their liberty upon admission to a penitentiary institution; and as well as to conduct screening examinations in connection with them;***
- ✓ ***Take immediate steps to end the practice of keeping patients of the other departments in the psychiatric department of the "Hospital for the Convicted" penitentiary institution;***
- ✓ ***Provide sufficient positions for mid-level and junior medical professionals in the psychiatric department of the "Hospital for the Convicted" penitentiary institution in order to properly organize the night shift in the department;***
- ✓ ***Immediately develop a procedure for obtaining informed consent for the treatment of persons deprived of their liberty, including in-patient treatment;***
- ✓ ***Organize in-patient treatment of persons deprived of liberty with mental health problems in accordance with the RA Law ''On "Psychiatric Care and Services" and with the provisions of the RA Minister of Health, ensuring the right to give an informed consent, as well as to introduce persons deprived of their liberty to their rights as patients;***
- ✓ ***Include psychotherapeutic and psychosocial rehabilitation components in the individual treatment programmes of persons deprived of their liberty with mental health problems in addition to medication-assisted treatment;***
- ✓ ***Ensure that medical confidentiality is maintained for persons with mental health problems.***

[109] See: the 3rd General Report on the CPT's activities at https://rm.coe.int/1680696a40 webpage, as of 31.03.2021, paragraph 44.

4.1.9. Organization of provision of state-guaranteed free medical assistance

Complaints to the Human Rights Defender and the results of the monitoring show that the necessary medical examinations, treatment or other medical interventions for persons deprived of their liberty are not always possible at the expense of the state.

For example, in 2020, it was problematic to organize medical examinations and treatment of persons deprived of their liberty in connection with ‘’Hepatitis"C" virus.

Thus, the person deprived of liberty in the "Goris" penitentiary institution reported that in December 2019 they were diagnosed with "Hepatitis C", in connection with which they repeatedly applied for treatment, but it was not organized.

In connection with the issue raised, the Ministry of Justice announced that from 10 December 2019 to 30 December 2019, rapid diagnostic testing and examination for ‘’hepatitis C’’ virus were conducted among persons deprived of their liberty.

The SNCO has applied to the Ministry of Health with a request to further organize the process of determining the virus genotype and PCR of the ‘’Hepatitis C’’ detected by rapid testing and the treatment of persons deprived of their liberty. In response to this, the Ministry of Health has informed that the ‘’National Center for Infectious Diseases’’ CJSC is ready to carry out qualitative PCR of ‘’Hepatitis C’’ virus and further genotyping of 291 persons deprived of liberty (among whom" hepatitis was detected by rapid testing). Starting from 18 January 2020, the blood samples of 68 of the examinees were transferred, in the prescribed manner, to ‘’National Center for Infectious Diseases’’ CJSC for the purpose of determining the qualitative PCR and genotype.

According to the explanations provided by the Ministry of Health, the ‘’Nork’’ Infectious Diseases Clinical Laboratory’’ CJSC carried out examinations of blood samples transferred from the subdivisions of the SNCO (qualitative PCR and genotyping) for the diagnosis of "Hepatitis C" virus among the arrestees, detainees and persons sentenced to imprisonment within the framework of "Hepatitis C Diagnosis and Treatment Programme for Socially Insecure and Individual (Special) Groups of Population Eligible for Free, State-Guaranteed Medical Assistance and Services" approved by the Order No. 3545-Ա of the Minister of Health of the Republic of Armenia of 27 November 2019.

The Ministry of Health also informed that due to the novel Coronavirus (COVID-19) pandemic, the abovementioned works were suspended during the state of emergency declared in the Republic of Armenia, and the ‘’National Center for Infectious Diseases’’ CJSC was re-profiled. According to the Ministry of Health, due to the state of martial law in the Republic of Armenia, the abovementioned works continued to be suspended.

As a result, the organization of the treatment of 68 detained and convicted persons with a diagnosis of ‘’Hepatitis C’’ in Penitentiary Institutions was not properly carried out.

It is noteworthy that as of 31 January 2021, according to the information provided by the Ministry of Justice, the number of persons deprived of liberty in Penitentiary Institutions with a diagnosis of "hepatitis C" differs significantly from the statistics for December 2019. According to the information provided by the Ministry of Justice, as of 31 January 2021, about 400-450 persons deprived of their liberty were diagnosed with ‘’hepatitis C’’.

Thus, in the framework of state-guaranteed free medical assistance, the organization of the examination and treatment of "Hepatitis C" among persons deprived of their liberty is not properly carried out, which is unacceptable and endangers their health.

Due to the fact that the organization of examinations or other medical interventions within the framework of state-guaranteed free medical assistance is delayed or not organized, sometimes persons deprived of their liberty are forced to raise funds to organize the provided medical interventions at their own expense. Delays in the treatment of diseases can have a negative impact on the successful outcome of treatment or even have irreversible consequences.

Although the full provision of the right to health care directly depends on the financial resources of the state, the examination and treatment of persons deprived of their liberty in medical facilities of the healthcare system is the obligation of the competent state authorities.

Moreover, given the State's obligation to ensure the right to health protection, it is necessary to carry out medical examinations, treatment and other interventions without undue delay.

Therefore, it is necessary to ensure the process of diagnosis and treatment of ‘’Hepatitis C’’ among persons deprived of their liberty within the framework of state-guaranteed free medical assistance.

4.1.10. Peculiarities of the organization of medical assistance and services for women and juvaniles deprived of their liberty

Ensuring the right to health of women and juveniles deprived of their liberty is of fundamental importance in the penitentiary system. The state is obliged to take all possible measures to ensure their physical and mental health and well-being.

Women and juveniles in Penitentiary Institutions may be vulnerable due to, for example, victimization in places of detention, the risk of sexual assault, gender-specific and age-aspecific peculiarities of special measures of healthcare, absence of stable connection with close relatives, and so on.

In this context, it is important to ensure that women and juveniles have access to medical assistance while in detention.

Women and juveniles deprived of liberty in the Republic of Armenia are kept in the ‘’Abovyan’’ Penitentiary Institution.

According to the information provided by the RA Ministry of Justice, a narcologist, gynecologist, psychiatrist and dentist are involved in the work of the subdivision of the SNCO located in the "Abovyan" penitentiary institution. The mid-level medical personnel are recruited with 4 shifts and one day nurse. The mid-level medical personnel work in shifts, every four days. One nurse serves two sectors: an isolation cell and a women's sector.

The issue of the involvement of a general practitioner, a therapist or a family doctor in the medical personnel remains unresolved, due to which other specialists of the medical service department provide therapeutic medical assistance.

The issue of providing the therapeutic service of the medical assistance and service in the penitentiary institution by a person with the relevant specialization is of primary importance.

European prison rules stipulate the requirement to involve a qualified general practitioner in the medical service department. According to these rules, *each penitentiary institution must use the services of at least one qualified general practitioner*[110].

It should be noted that the CPT *pays special attention to the special medical needs of juveniles deprived of their liberty. It is especially important that the health care offered to juveniles be part of a multi-profile (medical-psychological-social) care programme. This implies, inter alia, that there should be close coordination between the institution's medical personnel (doctors, nurses, psychologists, etc.) and other professionals (including social workers and teachers) who are in regular contact with persons deprived of their liberty. : The aim should be to ensure that medical assistance for juveniles deprived of their liberty is part of a unified system of support and therapy. It is desirable that the care plan be made available in written form to all members of the administration who may participate in it*[111].

The CPT noted that *all juveniles deprived of their liberty should be properly examined by a doctor as soon as possible after admission to a penitentiary institution. However, the first point of contact for newly admitted juveniles may be a fully qualified nurse who reports to the doctor*[112].

[110] See: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016809ee581 webpage, as of 31.03.2021, paragraph 41.1.

[111] See: https://rm.coe.int/1680697517webpage, as of 31.03.2021, paragraph 148.

[112] See: https://rm.coe.int/1680696a73 webpage, as of 31.03.2021, paragraph 39.

All three blocks of the ‘’Abovyan’’ penitentiary institution (Detention Sector, Juvenile and Women Sectors) have separate sections for medical assistance. There is one furnished medical room in the isolator to provide medical assistance for women and juveniles.

Although there is a separate gynecological office in the juvenile sector of the penitentiary institution, it is not adequately furnished and does not have the necessary tools for gynecological examination, such as ointment glass, Folkman's spoon, etc. It should be noted that paragraph 1.13 of Annex 112 to the RA Government Decree No. 1936-Ն[113] of 5 December 2002, considers it mandatory for the gynecological office to have the abovementioned items and tools. According to the information provided by the Ministry of Justice, in 2020 the SNCO did not purchase new medical supplies.

Absence of medications, gynecological examination, examination equipment, tools are an obstacle to the provision of proper gynecological services.

An important component of medical assistance and service is the organization of screening examinations.

According to the Ministry of Justice, 20 women deprived of their liberty underwent screening to prevent cervical and breast cancer, 16 of which were Pap smears and 4 were screened for breast cancer.

In this regard, in accordance with Rule 18 of the UN General Assembly (hereinafter referred to as the Bangkok Rules) of 21 December 2010 "On the Treatment of Women Deprived of their Liberty - Measures Taken with reagrd to Female Offenders, not Related to Deprivation of Liberty" *preventive health measures, such as Pap smears, breast and gynecological cancer screening, should be offered on an equal basis with women of the same age who are incarcerated.*

Moreover, Rule 9 of the Bangkok Rules sets out a requirement for screening for children of women deprived of their liberty[114].

Regarding the admission of juveniles to the places of deprivation of liberty, the CPT stressed *the need to ensure that all newly admitted* juveniles*, as well as* juveniles *who have fled or been relocated, are subject to a medical examination upon their return to the facility. Regular visits should also be to the pediatrician. The CPT stated that each child should have a personal medical record containing information about the diagnosis, as well as records of its development and any specific tests. In case of*

[113] RA Government Decree No. 1936-Ն "On Approving the Necessary Technical and Professional Qualification Requirements and Conditions for Polyclinics (Mixed, Adults and Children), Separate Specialized Offices, Family Doctor Offices, Out-patient Clinics, Rural Health Centers, Medical-Obstetric Departments, Women's Consultations and Out-patient (Specialized) Medical Assistance and Services’’ of 5 December 2002 .

[114] See: https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf webpage, as of 31.03.2021.

transfer of a person to another facility, the mentioned document should be sent to the doctor of the receiving institution[115].

It should be noted that ''Abovyan'' penitentiary institution does not have a pediatrician when the institution is designed for both women and juveniles, moreover, sometimes women can have children up to 3 years old under their care.

On the first floor of the women's sector, there are three medical service offices: admission office, medical interventions office, and a rest room for medical personnel.

Despite the fact that the mentioned medical intervention office is operating, the legal requirements for the medical institutions of the in-patient medical assistance department have not been met yet. The medical service area is not provided with water and a toilet.

According to the information provided by the Ministry of Justice, the medical assistance and service room is located at the end of the block, where there is no central water supply and sewerage system. Due to the current economic situation in the Republic of Armenia, the allocation of funds necessary for the construction of new systems is not currently provided for the solution of the subject matter.

With regard to the organization of in-patient medical assistance for women and juveniles deprived of their liberty, it should be noted that there are no conditions for in-patient care in the "Hospital for the Convicted" penitentiary institution;

Therefore, based on the abovementioned, it is necessary to:

- ✓ ***Develop a screening scheme for women deprived of their liberty to detect sexually transmitted infections, prevent cervical and breast tumors, and other diseases;***
- ✓ ***Provide the Penitentiary institution with the necessary medical supplies;***
- ✓ ***Carry out renovation of rooms for medical assistance in the women's sector and in an isolation room;***
- ✓ ***Provide the mentioned subdivision of the SNCO located in the women's sector with running water and toilet.***

[115] See: CPT Report on Bulgaria 2002 at https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680694040 webpage, as of 31.03.2021, paragraph 189.

4.1.11. Release from detention or punishment on the grounds of serious illness

Humanitarian assistance is one of the most important criteria for providing medical assistance and services to patients. Taking into account the abovementioned, in case of impossibility to treat current serious illness, the State should provide as much as possible for the persons deprived of their liberty to organize it outside the Penitentiary Institution, to be taken care of by relatives, and to die with dignity.

Consequently, there is a clear and complete legal regulation of the process of releasing persons deprived of their liberty on the grounds of a serious illness (in case of a detainee- releasing from detention).

This issue was specifically addressed in the Annual reports on the activities of the Human Rights Defender as the National Preventive Mechanism in 2016, 2017, 2018 and 2019[116].

In connection with the Human Rights Defender's recommendations on the issue, the Ministry of Justice of the Republic of Armenia has developed a draft law envisaging amendments to the RA Government Decree No. 825-Ն of 26 May, 2006, which was adopted on the 15th of August , 2019.

As a result, along with a number of other amendments, Chapter 10 of the Annex to the RA Government Decree No. 825-Ն of 26 May, 2006, envisages the establishment of a medical commission under the Ministry of Justice, whose function will be to change the measure of restraint due to a serious illness (disorders, conditions) of a detainee in accordance with the RA Criminal Code, the RA Criminal Procedure Code, and to give a conclusion on the expediency of releasing a convicted person detained in a Penitentiary Institution on the same grounds.

This regulation, of course, is a positive step in itself, as instead of the previous two-tier system, it is planned to set up a single medical commission, but **The provisions of Chapter 10 of the Annex to the same Decree on the medical commission shall enter into force from the moment of the entry into force of the Decision of the Government of the Republic of Armenia on setting the working procedure and remuneration criteria of the medical commission, the working group attached to it.**

The abovementioned the RA Government Draft Decree was developed by the Ministry of Justice and submitted to the Human Rights Defender in 2020. In connection with the project, a number of issues were raised related to the requirements attributed to the members of the medical commission, the

[116] See: https://www.ombuds.am/images/files/107efea7ef699b67309a61ffdf8d0f1e.pdf , https://www.ombuds.am/images/files/59297c7b4276c9dbf19cd1f1cfcd92a8.pdf , https://www.ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf , https://www.ombuds.am/images/files/f6bccc6db65258e28be6f3e093987a15.pdf webpages, as of 31.03.2021, pages 90-93, 35-39, 178-182 and 195-200.

presence of narrow-field specialists in the commission, the deadlines for discussing cases, submitting a conclusion, and a number of other procedural issues.

Taking into account that the Chapter 10 of the Annex to the RA Government Decree No. 825-Ն of 26 May 2006, concerning the medical commission, has not actually entered into force, the issues on the need to release or change the measure of restraint were regulated in accordance with the current legislation on the basis of the RA Government Decree No. 1636-Ն "On Approving the Procedure for Establishing Interdepartmental Medical Commissions" of 4 December 2003.

Based on the RA Government Decree No. 1636-Ն "On Approving the Procedure for Establishing Interdepartmental Medical Commissions" of 4 December 2003 , three interdepartmental commissions continued to operate. They can be conventionally named as follows: *Interdepartmental commissions on the issues on release from punishment due to serious illness, change of the measure of restraint due to a serious illness, as well as release from punishment due to mental health condition (hereinafter referred to as Interdepartmental Commissions).*

Therefore, the Human Rights Defender's problems regarding the absence of clear procedures and mechanisms for applying to the abovementioned Interdepartmental Commissions, as well as the deadlines for reviewing cases, remain unchanged, which is extremely problematic, especially considering that the legislation provides relevant preconditions for the Medical Commission. Those regulations have not intered into force yet.

According to the Statistical Data provided by the Ministry of Justice, in 2020 the Interdepartmental Medical Commission examined 91 cases related to diagnoses impeding the further serving of sentences, of which 27 were positive conclusions on the serious illness preventing the serving of sentences (sent to Penitentiary Institutions through mediation to appeal to the court), as a result of which, 16 convicted persons were released from further serving their sentences. It should be noted that in 2020, some of the convicted persons released from further serving their sentences also had a psychiatric diagnosis.

Compared to the previous year, the number of cases examined for the existence of serious diseases impeding serving a sentence has increased by 63, on that basis, the number of positive cases by the Interdepartmental Commission increased by 10, and the number of those released from further serving of the sentence by the decision of the court increased by 5[117].

The case may be reviewed regularly to determine if there is a serious illness impeding persons deprived of their liberty from serving their sentence. Thus, in 2020, out of 91 cases examined by the

[117] In 2019, 17 out of 28 cases reviewed by the Interdepartmental Medical Commission were satisfied. In 2019, as a result of cases satisfied by the Interdepartmental Medical Commission, 11 convicted persons were released from serving their sentences by a court decision.

Interdepartmental Medical Commission under the RA Ministry of Justice, the medical records of 20 convicted persons were examined 46 times.

The issue of the existence of serious diseases impeding the serving of a sentence by the Interdepartmental Commission and the deadlines for making a decision on them remain unresolved.

Thus, in one of the complaints addressed to the Human Rights Defender in June 2020, the conviced person in the ‘’Armavir’’penitentiary institution stated that they had been diagnosed with glaucoma, had left eye blindness, and the right eye could hardly see, but the issue of the release from further serving the sentence is not discussed on the basis of a serious illness impeding him of her from serving their sentence.

The Ministry of Justice said that on the 1st of April, 2019, the latter was examined by the Interdepartmental Commission, which concluded that the diagnosis did not correspond to the list of serious diseases that hinder the serving of the sentence. The Ministry of Justice of the Republic of Armenia informed that on the 17th of September, 2020, the SNCO again provided a relevant referral to organize the examination of a person deprived of liberty within the framework of free, state-guaranteed medical assistance and services. However, the investigations were organized only on the 14th of December, and after the Interdepartmental Commission examination, only by the decision of the court of 29 December 2020, the person was released from further serving of the sentence due to a serious illness impeding them from serving their sentence. Thus, the investigation of the case of a person deprived of liberty took more than 6 months.

Therefore, it remains relevant to define the deadlines and procedures for applying to the Interdepartmental Commissions, examining the case and making a decision.

In the Annual reports on the activities of the Human Rights Defender as the National Preventive Mechanism, serious illness preventing serving the sentence approved by the RA Government Decree No. 825-Ն of 26 May 2006 (according to the 10th revised Statistical Classifier in terms of diseases and health issues: symptoms of the disease severity, functional disorders) listing problems, in particular, its limitations.

In this regard, it should be emphasized that as a result of the amendments made on the 15th of August, 2019 to the RA Government Decree No. 825-Ն of 26 May 2006 based on the recommendations of the Human Rights Defender, among other things, it was stated that they can be considered severe if in practice the life of a detained or a convicted person is in real danger or creates a serious health condition, the complications of which are similar to the complications of the diseases defined in the Orientation list.

However, as Chapter 10 of the Annex to the RA Government Decree No. 825-Ն of 26 May 2006, concerning the Medical Commission, did not actually enter into the force, paragraph 96 included in the mentioned Chapter, according to which *the Medical Commission give a conclusion on the existence of*

diseases (including conditions or disorders) or a combination of diseases that impede detention or punishment from being chosen as a measure of restraint, which, although not included in this Orientation List, is(are) classified as severe; :

1) *It is manifested (are manifested) by varying degrees severity and prevalence of the disease, accompanied by severe and in-depth disorders of activity and participation, in particular, disease(s), which , not present at the time of this decision, practically endanger the life of the a detained or a convicted person (for example, diseases related to the decomposition of the body as a result of narcotic drug usage).*
2) *Serious health condition is created, the complications of which are similar to the complications that occur as a result of the diseases defined in the Orientation List provided for in this procedure.*

At the same time, the amendments made to the RA Criminal Procedure Code on the 8th of July 2020, should be positively assessed.

It is noteworthy that part 1 of Article 432 of the RA Criminal Procedure Code previously stipulated that *''If a person sentenced to imprisonment has a serious illness while serving theirsentence, which is a barrier to serving their sentence, the court has the right to decide to release them from serving their sentence at the request by the petition of the administration of the Penitentiary Institution, which must be based on the conclusion of the Medical Commission.''*

According to the regulation, there was no time limit for the court, often the courts did not consider the petition within a reasonable time, as a result of which the person's life and health were endangered, and a number of fundamental rights were restricted.

According to the information provided by the Ministry of Justice, in 2020, 2 deaths were registered in Penitentiary Institutions due to the delay in discussing the issue of release from detention or punishment on the grounds of serious illness.

In this context, it should be noted that on the 8th of July, 2020, the RA National Assembly adopted the RA Law ''On Making Amendments to the Criminal Procedure Code of the Republic of Armenia'', according to which:

1) The court or the prosecutor may amend or eliminate the restraint measure of detention if there is a serious illness impeding the detention. In resolving the issue of detention chosen as a measure of restraint with regard to a person suffering from a serious illness, the court or the prosecutor shall take into account the gravity of the alleged crime, the personality of the accused, and other circumstances.
2) In the abovementioned case, where there is a serious illness impeding the detention, the court or the prosecutor has the right to modify or cancel the detention chosen as a measure of restraint upon the petition of the administration of the Penitentiary Institution which must be based on the

conclusion of the Medical Commission. **The court or the prosecutor examines the petition immediately, but not later than the next day after receiving it.** Upon completion of the examination of the petition, the court or the prosecutor shall make a decision on the approval or rejection of the petition, stating the grounds for the approval or rejection.

3) The decision of the prosecutor to reject the petition may be appealed in court, and the decision of the court to reject the petition may be appealed to a higher court. **The court examines the complaint immediately, but not later than the next day after receiving it.** After completing the examination of the complaint, the court makes a decision about the approval or rejection of the complaint stating the grounds for approval or rejection.

Thus, in the RA Criminal Procedure Code, the establishment of time limits for examining the petition of the administration of the institution implementing the sentence or of the detention facility to consider the release from serving a sentence and change or eliminating detention chosen as a restraint measure on the grounds of serious illness is welcome.

Summing up the abovementioned, it should be noted that although some legislative amendments have been made to change the measure of restraint or release from punishment on the grounds of serious illness, however, some legal and practical issues remain relevant, which has a negative impact on the provision of the rights of persons deprived of their liberty.

In view of the abovementioned, it is necessary to immediately clarify the working procedure of the Medical Commission operating for the solution of issues of release from serving a sentence (from detention, in case of detainees) on the basis of a serious illness, establishing procedural guarantees and clear deadlines for hearing cases.

4.1.12. Ensuring medical confidentiality and obtaining informed consent in Penitentiary Institutions

Everyone has the right to privacy of their personal information, including information on their health, to undergo diagnostic examinations, visits to specialists, and general therapeutic and surgical procedures.

The protection of medical confidentiality and the realization of the right to ensure its protection of persons deprived of their liberty is in the focus of the Human Rights Defender.

During the monitoring visits, the Human Rights Defender's representatives noted problems with medical confidentiality.

Thus, in the "Treatment Section" block of the "Armavir" penitentiary institution, a room intended for interventions is separated, where, at the time of the visit, intravenous injections were performed by a day nurse to persons deprived of their liberty held in in-patient facilities and in residential blocks at the same time. At the time of the visit, two persons deprived of their liberty were injected intravenously in the abovementioned intervention room, sitting side by side. The mentioned intervention room was supervised by the prison officer. According to the information received, the latter was constantly present at all medical interventions.

Moreover, in the mentioned Penitentiary Institution, the persons deprived of their liberty are provided with psychiatric drugs as needed in the presence of the security officers and an on-duty responsible, about which a protocol is being made. Methadone Substitution Therapy is also organized with the direct participation of prison officers.

In particular, according to the information received, the Methadone Substitution Therapy is provided in the corridor of the investigation rooms, and the nurse of the "Armavir" subdivision of the SNCO participates in the process, 1 operative of the Penitentiary Service, 4-5 security officers, as well as 2 guards accompanying the person from the block.

A similar situation was registered in "Yerevan-Kentron" penitentiary institution, where at the time of the visit there was no person deprived of liberty included in the "Methadone Substitution Treatment" programme, and two persons received psychotropic drugs. However, according to the information provided, Methadone Substitution Therapy is usually provided at the door of the medical examination room, which is attended by the nurse of the subdivision located in the mentioned penitentiary institution of the SNCO, 2 guards accompanying the person from the block.

Thus, the non-medical personnel of the Penitentiary Institutions are directly involved in the organization of the treatment of persons deprived of their liberty, informed about the drugs taken, their dosage, which is inadmissible from the point of view of medical confidentiality.

Medical confidentiality is not maintained even when prison officers have access to medical records.

During the monitoring visits carried out by the National Preventive Mechanism, problems were also stated regarding the access of records containing medical secrets by the non- medical personnel of Penitentiary Institutions, the process of maintenance and control over the records by the latter.

Thus, the register of "Records on the preliminary medical examination of detained and convicted persons" of the "Armavir" penitentiary institution was kept in the duty part of the abovementioned institution. The duty officer of the day was responsible for maintaining the register. A similar situation was registered in connection with the register "Visit to the detainees in the disciplinary cell and medical examination", which was kept by the duty officer of the disciplinary cell department. Moreover, the medical personnel visit the detainees in the disciplinary cell department. together with the duty officer,

as a result of which the data containing medical information become available to the non-medical personnel. annd

Thus, the monitoring of the National Preventive Mechanism shows that medical confidentiality is not maintained, as the non-medical personnel of the Penitentiary Institution is directly involved in organizing the treatment of persons deprived of their liberty, information on medications taken and their dosage, as well as access to medical confidential records.

The Human Rights Defender considers it necessary to emphasize that such violations of medical confidentiality are inadmissible.

Provisions on medical confidentiality and its requirements are contained in paragraph 3 of Article 11 of the RA Law ‘’On Medical Assistance and Services for the Population’’, according to t which *the data considered medical confidential can be transferred with the consent of the patient or their legal representative, except directly by law intended cases.*

In this regard, according to the explanations provided by the Ministry of Justice of the Republic of Armenia, the work of the beneficiaries of the "Methadone Substitution Treatment" programme to organize the treatment of persons deprived of liberty receiving psychotropic drugs in proper conditions and to ensure medical confidentiality continued in 2020. According to the Ministry of Justice, in the ‘’Armavir’’ Penitentiary Institution, where previously the beneficiaries of the abovementioned programme received the daily dosage at the place for visits, now they receive it in a special room only in the presence of a medical worker.

According to the information provided by the Ministry of Justice, during different months of 2020, 158-175 detained and convicted persons received Methadone Substitution Therapy in Penitentiary Institutions. The mentioned persons were included in the programme both by the relevant commission and before their imprisonment, based on the decision made by the "Republican Addiction Center" CJSC. In 2020, the number of persons applying for inclusion in the programme was 101. 11 of the mentioned persons refused to be included in the programme during the committee discussions, the inclusion of 8 persons in the programme was rejected by the commission due to the absence of medical instructions, 4 persons were released from detention before the admission by the commission, and 78 persons were included in the programme.

It should be noted that as of 28 February 2019, the number of beneficiaries of the "Methadone Substitution Therapy" programme in Penitentiary Institutions was 155.

Thus, the results of the study on the ‘’Methadone Substitution Therapy’’ Programme show that effective measures should be taken to ensure the continuity of the programme and to expand the scope by providing medical assistance to all persons deprived of their liberty in need of Methadone Substitution Therapy.

Another problem is the absence of informed consent by persons deprived of their liberty in Penitentiary Institutions for medical examinations, treatment or other interventions.

Thus, the examination of the medical records of persons deprived of their liberty during the monitoring visits revealed that there was no written consent of the persons deprived of their liberty in connection with medical interventions. In practice, persons deprived of their liberty receive medical examination, treatment, and various other medical interventions without their informed consent.

According to the information provided, only in case of persons deprived of their liberty with mental health problems and with HIV infection admitted to the psychiatric department of the "Hospital for the Convicted" penitentiary institution, their consent is obtained[118].

Meanwhile, part 1 of Article 16 of the RA Law ''On Medical Assistance and Services to the Population'', according to which *a written consent of a person is a necessary condition for medical intervention, except for the cases provided for in Article 24 of this Law*, i.e. *in accordance with the procedure established by the Government. In case of danger to human life; in case of diseases endangering the environment, in accordance with the law.*

Thus, persons deprived of their liberty are subjected to medical interventions in Penitentiary Institutions without obtaining their written informed consent, which is inadmissible and violates the law.

According to the information provided by the Ministry of Justice of the Republic of Armenia, within the framework of the "Promotion of Health and Human Rights Protection in Armenian Prisons" programme implemented jointly by the Council of Europe, the issue of the procedure for obtaining informed consent of persons receiving services in penitentiaries, including the mechanisms for getting acquainted with the rights as a patient, was targeted, and a draft legal act was developed accordingly.

The development of the project is, of course, welcome, but informed consent must be obtained not only in case of psychiatric care, but also in the provision of any type of medical assistance.

According to paragraph 9 of the Annex to the RA Government Decree No. 825-Ն of 26 May 2006, *in the quarantine subdivision of the Penitentiary Institutions, before the medical examination, a detained or a convicted person orally and in the written form is being informed, respectively by a competent officer of the administration of the place of detention or of the penitentiary institution., in the language understandable for them, about health care, including the right to medical assistance and services, the scope of medical assistance and services and the procedure for providing it. Written notification shall be provided by the Minister of Justice of the Republic of Armenia by issuing an information leaflet to a*

[118] See more details in paragraph 4.1.8 of this report.

detained or a convicted person, the sample of which and provision procedure shall be determined by the Minister of Justice of the Republic of Armenia.

Another issue is the non-provision of information on the possibility, scope and procedure of providing medical services to persons deprived of their liberty admitted to a Penitentiary Institution.

Thus, during the monitoring visit to the "Armavir" penitentiary institution, it was registered that the persons deprived of their liberty were not notified about the possibility, the scope and procedure of providing medical services upon admission to the mentioned Penitentiary Institution.

It should be noted that according to the medical personnel of the "Armavir'' subdivision of the SNCO, they do not know about the sample of the abovementioned information leaflet.

Thus, not informing the persons admitted to the Penitentiary Institution about the procedure for using medical services may make them more vulnerable or unaware of the procedures for applying for medical services, which can lead to delays in the organization of medical assistance which in turn can lead to poor health conditions or irreversible consequences.

Unlike the ''Armavir'' Penitentiary Institution, during the monitoring visit to the ''Yerevan-Kentron'' Penitentiary Institution, there were signed information leaflets on the medical records of persons deprived of their liberty. They corresponded to the sample defined by Annex 1 to the Order No. 593-L of the Minister of Justice of 18 December 2019.

Therefore, it is necessary to:

- ✓ ***Ensure the programme of ''Methadone Substitution Therapy'' beneficiaries in Penitentiary Institutions in appropriate conditions, while maintaining their medical confidentiality;***
- ✓ ***Ensure the requirements set by the legislation on the protection of medical confidentiality of persons deprived of their liberty;***
- ✓ ***Carry out medical interventions in Penitentiary Institutions only with the written informed consent of persons deprived of their liberty;***
- ✓ ***Provide persons deprived of their liberty in Penitentiary Institutions with information leaflets on health care, including the right to medical assistance and services, the scope of medical assistance and services and the procedure for providing it.***

4.1.13. Provision of care in Penitentiary Institutions

Medical assistance and services include patient care. There are cases in Penitentiary Institutions when a person needs professional care due to their health condition.

As a result of the review and monitoring of complaints addressed to the Human Rights Defender, it was stated that the scope of care provided to persons deprived of their liberty remains insufficient.

The results of a study conducted in Penitentiary Institutions show that in case of impossibility of providing proper care, the care of persons deprived of their liberty is not organized in the medical facilities of the healthcare system. According to the Ministry of Justice, the care of persons deprived of their liberty in need of care is provided by the medical personnel of the SNCO.

According to the information provided by the Ministry of Justice, as of 30 December 2020, 11 persons deprived of their liberty in need of care were kept in Penitentiary Institutions. 3 of the persons in need of care are kept in the "Armavir" and 8 in the "Hospital for the Convicted" penitentiary institutions.

It should be noted that at the time of the National Preventive Mechanism's visit to the ‘’Armavir’’ penitentiary institution, 12 persons deprived of their liberty were kept in the in-patient department of the ‘’Treatment Section’’ block of the penitentiary institution, most of whom needed care and three of whom were in wheelchairs. The persons deprived of their liberty were kept in the in-patient department of the‘’Treatment Section’’ mainly conditioned by the fact that the living conditions were more adapted: a toilet bowl was set in the toilet, the areas/surface of the hospital rooms were larger, the persons deprived of their liberty were kept alone or in two, and moving in wheelchairs was more comfortable.

It should be noted that at the time of the monitoring visit to the ‘’Armavir’’ penitentiary institution, there were still cases when the care of a person deprived of liberty was organized by other persons deprived of their liberty (cellmates).

In this regard, according to international standards, the State is obliged to provide permanent care to persons deprived of their liberty with special needs by specialists with special training. Consequently, organization for the care of a person deprived of liberty by a cellmate may not in itself be problematic if that care is provided by a person deprived of liberty who has a relevant profession or has undergone special training for that purpose.

According to the information provided by the Ministry of Justice, in order to properly organize the care of persons deprived of their liberty, in 2020 the mid-level and senior medical personnel of the SNCO underwent a number of professional trainings, including a ten-day training on "Palliative Care of Patients", which is definitely a welcome initiative.

At the same time, for the mid-level medical personnel of the SNCO subdivisions, the mere organization of palliative care courses is not sufficient to ensure the proper organization of specialized health care for persons deprived of their liberty.

In relation to the abovementioned, according to Rule 40.3 of the European Prison Rules, *Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal status.* Rule 46.1 states *that prisoners with a disease requiring special care should be transferred to specialized institutions or civil medical facilities when such treatment is not available in places of deprivation of liberty*[119].

The CPT, in paragraph 75 of its 2013 report on Italy, *called for caution in involving other persons deprived of their liberty in the care of persons deprived of their liberty with mobility impairments.* The CPT noted that *the State should take steps to provide proper training to persons deprived of their liberty involved in the care of persons deprived of their liberty with mobility impairments. Even in those circumstances, the care of the abovementioned persons should be properly supervised by the qualified staff of the correctional institution*[120].

Issues related to the health of persons deprived of their liberty and the provision of their medical assistance are viewed in international law in the context of torture, inhuman or degrading treatment.

By the RA Government Decree No. 825-Ն of 26 May 2006, in case of certain diseases (for example, diabetes, neoplasms, psychiatric diseases, etc.), the medical subdivision of the SNCO located in Penitentiary Institutions established an obligation to organize care for persons deprived of liberty.

Therefore, in case of such a need, proper care of the persons deprived of their liberty in need of special care should be provided by a person with appropriate specialization in Penitentiary Institutions and in case of insufficient scope of care provided in the "Hospital for the Convicted" subdivision of the SNCO, persons deprived of their liberty should be transferred to specialized medical facilities.

4.1.14. Preliminary medical examination

Upon admission to a Penitentiary Institution, persons deprived of their liberty undergo a preliminary medical examination, which includes an external examination, psychiatric certification, clarification about the existence of complaints about their health condition, and consultation.

It aims not only to maintain health, to organize preventive treatment as needed, but also to prevent, detect, and properly investigate cases of torture and ill-treatment.

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[119] See: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016809ee581 webpage, as of 31.03.2021.

[120] See: https://rm.coe.int/168069727a webpage, as of 31.03.2021.

During the monitoring visits, it was found out that the persons deprived of their liberty were not properly examined upon admission to the Penitentiary Institution.

Also of concern is the absence of rooms for the preliminary medical examination or, if available, the absence of the furniture.

Thus, the physical examination of the newly admitted detained and convicted persons of the "Yerevan-Kentron" penitentiary institution is carried out in the cells intended for search. Physical examination of detained and convicted persons newly admitted the ‘’Armavir’’ penitentiary institution is performed in the corridor of the quarantine department, in an area separated by a glass partition, and if it is occupied, in an adjoining room. At the time of the visit, the mentioned area was not properly furnished, there was only one table. The sanitary and hygienic conditions were not enough: cigarette butts were thrown on the floor and on the windowsills, and there was a used mask on the floor.

The rooms for the examination of persons deprived of their liberty were not provided with the necessary lighting and heating.

In the monitored Penitentiary Institution, there was no natural light in the rooms used for that purpose, there was no medical couch, sometimes even a chair or hanger (after taking off the clothes, it remains in the hands of the person deprived of liberty or placed on the floor). Sometimes there has not even been a property such as a table, chair, etc, for the work of the medical personnel and for making relevant records.

In connection with the abovementioned, it should be noted that there are no special rooms for preliminary examination in Penitentiary Institutions, and the rooms where the examination is actually performed, are **not furnished. As a result, it is not possible to properly organize a preliminary medical examination of persons deprived of their liberty, which is unacceptabl**e.

The participation and presence of penitentiary staff in the preliminary medical examination or their implementation remains problematic.

Moreover, the practice of simultaneous preliminary medical examination of several persons deprived of their liberty continues.

Thus, at the time of the monitoring visit, the preliminary medical examination in the "Armavir" penitentiary institution was performed by the on-duty medical assistant in the presence of on-duty person in charge of the day, the security officer, as well as the accompanying police officer, jointly with the implementation of search. Depending on the number of persons deprived of their liberty admitted to a Penitentiary Institution, the latter were examined at the same time.

In the "Yerevan-Kentron" penitentiary institution, the preliminary examination is performed by a doctor, in the absence of the latter, by a nurse, in the presence of the on-duty person in charge of the day and security officer.

In connection with the abovementioned, it should be noted that the medical examination should be performed only by a doctor out of earshot of the staff of the place of deprivation of liberty and unless the doctor requires otherwise, out of sight.

The RA Government Decree No. 825-Ն of 26 May 2006 contains detailed regulations on medical examination and paragraph 12 of the Annex to the latter stipulates *that the medical examination is performed by the doctors of the SNCO, and* according to paragraph 13*, unhe medical examination is performed in the detention place, out of earshot of the officers who are not medical workers or officers who are transporting a detained or a convicted person and unless the doctor performing the medical examination requires otherwise, then also out of sight. Medical examination of detained or convicted persons is performed on an individual basis and separately.*

In this regard, the CPT stated that *medical examinations of persons deprived of their liberty (upon arrival or later) should be performed out of earshot of the staff working in a place of deprivation of liberty and unless the relevant doctor so requests, out of sight. The medical examination of a deprived person should be performed not in groups, but on an individual basis*[121].

In its 2016 report on Armenia, the CPT also referred to medical examinations in places of deprivation of liberty as a preventive measure against torture. In particular, the CPT reaffirmed the recommendations contained in the reports of previous years, noting that *the primary medical examination of a person at the place of deprivation of liberty, especially the registration and reporting of injuries received, is not carried out properly. The CPT considered it problematic that the examination was performed within the framework of the detention procedure in the presence of the accompanying police officers and the administration of a penitentiary institution, in violation of the principle of confidentiality*[122].

The monitoring showed that persons deprived of their liberty undergo external medical examination only once, when they are admitted to a penitentiary institution. In other cases, when a person is transferred to a court or to take part in an investigative operation and returns to a penitentiary institution no external medical examination is performed.

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[121] See: the CPT 2nd General Report, which covers the period from 1 January 1991 to 31 December 1991, at https://rm.coe.int/1680696a3f webpage, as of 31.03.2021, paragraph 51.

[122] See: https://rm.coe.int/16806bf46f webpage, as of 31.03.2021, paragraph 81.

Such an approach can not fully contribute to the proper organization of the prevention, detection and effective investigation of cases of ill-treatment.

Proper medical examination and proper recording of its results may be necessary for the proper organization of an effective investigation into cases of torture and ill-treatment.

The results of the monitoring visits show that a preliminary medical examination and a proper professional recording are not carried out. For example, in case of recording of numerous cases of injury to persons deprived of their liberty entering the ‘’Armavir’’ Penitentiary Institution, there was no relevant record ‘’On Performing Medical Examinations Related to Torture and Other Cases of Ill-treatment and Recording of These Cases’’ hasn’t been maintained and no other legal obligation is defined to report to law enforcement agencies.

In this context, it should be noted that according to the information provided by the Ministry of Justice, in 2020, 5 records have been made in Penitentiary Institutions on the performance of medical examinations in connection with torture and other cases of ill-treatment and recording of cases, which were submitted to the RA Prosecutor General's Office to resolve the further process.

P**roper professional medical examination of persons deprived of their liberty in the studied Penitentiary Institutions is not performed and no record on this has been made, which is inadmissible.**

The absence of a record of injuries found during the preliminary examination does not follow from the main objectives and requirements of the preliminary examination.

There were cases when the records of physical injuries were made with mistakes, deletions in the register of "Records of Preliminary Medical Examination of Detained and Convicted Persons", or there were records on not finding injuries, wounds and not having any complaints.

Another issue for the proper provision of the preliminary medical examination of persons deprived of their liberty admitted to Penitentiary Institutions is the availability of records and a register containing information as medical secret to non- medical personnel.

Thus, at the time of the monitoring, the register intended for the preliminary medical examination in the "Armavir" penitentiary institution was kept in the duty part of the abovementioned institutions. The person in charge of the day was in charge of maintenance of the register. Thus, information containing medical secrets was not properly stored.

Moreover, in connection with the results of the preliminary medical examination, the study conducted in the "Armavir" penitentiary institution revealed that the complete picture of the results of the objective medical examination was not recorded; the exact anatomical location, colour, suface, and other criteria for the injury are not described. The records also do not contain the doctor's opinion on the juxtaposition

of the objective description of the injury and the statement made by the person deprived of liberty. At the same time, injuries are not recorded in the charts and are not photographed.

In this connection, the paragraph 15 of the Annex to the RA Government Decree No. 825- Ն of 26 May 2006 stipulates *that in the out-patient medical card of a person deprived of liberty and in the medical examination registers of whose who enter the place of detention and Penitentiary Institutions must include:*

1) *A complete picture of all statements made by a detained or a convicted person under medical examination, including a description of their state of health and any other statement related to torture and other forms of ill-treatment.*
2) *The complete picture of the results of the objective medical examination.*
3) *The doctor's conclusion is based on the requirements of paragraph 15 (1, 2).*

In connection with the absolute prohibition of torture, the international community has developed a number of criteria to protect, prevent and identify persons deprived of their liberty.

Thus, UN 2004 Protocol[123] (hereinafter referred to as the Protocol) contains important criteria for the effective investigation of cases of torture and ill-treatment. It provides guidelines for submitting information obtained to the competent authorities, for medical examination of victims and for investigation of the cases of alleged torture and other forms of ill-treatment,

Paragraph 104 of the Protocol stipulates that *a medical examination should be performed regardless of the period elapsed after the alleged torture, but it is very important to perform it immediately until the obvious signs of torture have disappeared.*

Connected with the cases of torture and other forms of ill-treatment, the role of the medical examination record is significant as it can have utmost importance in their detection. According to Article 83 of the Protocol, *the medical examiner must immediately make a clear written record. It should include at least the following:*

1. *Question and answer circumstances with the person undergoing the medical examination (name of the person undergoing medical examination, names of the persons present at the medical examination, their connection with the person undergoing medical examination, exact day, time, place, of the examination, etc.);*
2. *Background (information provided by the person undergoing medical examination, methods of alleged torture or ill-treatment, time, all complaints of physical or mental health);*

[123] See: the UN Protocol of 2004. The Manual on the Documentation and Impelmentation of an Effective Investigation of Torture, Other Cruel, Inhuman or Degrading Treatment or Punishment at http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf webpage, as of 31.03.2021.

3. *Physical and psychological examination (record of physical and psychological symptoms found as a result of clinical examination, including diagnostic examination; if possible, colour photographs of all injuries);*
4. *Conclusion (comment on the possible link between physical and psychological symptoms and other possible cases of torture or ill-treatment, indications for any necessary medical and psychological assistance or further examination);*
5. *Information on the compiler of the record (data of the person or persons who conducted the medical examination, signature).*

The protocol sets out standards for the medical examination of victims of torture and ill-treatment. According to paragraph 175 thereof, t*he examiner must indicate all the relevant positive and negative data, recording the location and nature of all injuries using a schematic image of a person.*

These are also of preventive importance. The use of the documents and guidelines contained in the Protocol by independent medical professionals will significantly contribute to both the effective investigation, detection and prevention of cases of torture and ill-treatment.

The European Court of Human Rights has also attached the importance to the use of the principles of the Protocol in the investigation of cases of torture to assess the legality of States' actions in the context of Article 3 of the European Convention[124].

The problems found show that both the practice of organizing the preliminary medical examination procedure and recording the detected injuries do not comply with international legal standards.

The Ministry of Justice has developed a draft law on amendments to the RA Government Decree No. 825-Ն of 26 May 2006 on the procedure of performing the preliminary medical examination, medical examinations related to torture, inhuman or degrading treatment, procedure of the case recording and their completion, and it was submitted to the Human Rights Defender in 2020. Considerations of the Human Rights Defender's Office about the draft law was presented to the Ministry of Justice. The mentioned draft law was adopted on the 18th of March, 2021.

The formats of performing medical examinations related to the out-patient medical card of a detained or a convicted person, medical history, medical history statement (medical card), torture and other forms of ill-treatment and recording the cases and guidelines for completing them approved by the Order

[124] See: Judgement made on the 3rd of June, 2004 on the case of *''Bati and Others v. Turkey''*, Application no. 33097/96 and no. 57834/00 100 100; / 02, 36397/03, Para. 48.

No.10-L of the Minister of Justice of the Republic of Armenia of 14 January 2020. However, according to the Ministry of Justice, a draft amendment to the Order is currently being developed, which will provide a new version of recording cases of torture and other ill-treatment and the guidelines of their completion.

Therefore, it is necessary to conduct regular trainings for the medical personnel of the SNCO on the performance of medical examinations related to torture, inhuman or degrading treatment, templates for recording the cases and form of their completion, as well as to establish proper supervision over the preliminary examination.

Thus it is necessary to:

- ✓ ***Organize a preliminary medical examination in specially adapted and sufficiently furnished places;***
- ✓ ***Be guided exclusively by the legislative requirements of the preliminary examination and record, follow the instructions of the guidelines for the proper filling in of the medical examination register records of persons deprived of their liberty, ensuring their practical application;***
- ✓ ***Exclude the combination of external medical examination and search of persons deprived of liberty;***
- ✓ ***Conduct medical examinations out of the earshot and out of sight of a penitentiary or other staff and maintaining medical confidentiality;***
- ✓ ***Put the responsibility for keeping any information containing medical secrets, including maintenance of an external examination rgister on medical personnel in all Penitentiary Institutions;***
- ✓ ***Organize an external medical examination of persons deprived of their liberty in any case of entering or leaving the Penitentiary Institution;***
- ✓ ***Carry out regular trainings for the medical personnel of the SNCO on the performance of the medical examinationss related to torture, inhuman or degrading treatment, templates of their medical records and the form of completion of the latter and proper recording of injuries, as well as to establish proper control over the preliminary examination.***

4.1.15. Medical supervision over persons who refuse food or water

Persons deprived of their liberty in the Penitentiary Institutions often go on hunger strike as a form of protest. During the monitoring visits, within the framework of individual complaints as well as in case of information on hunger strikes initiated by persons deprived of their liberty received through the mass media, the Human Rights Defender's representatives visit them, have private interviews with them, and

keep their focus on ensuring their right to health. The purpose of this work is to ensure that persons deprived of their liberty on hunger strike are treated exclusively on medical grounds under the jurisdiction of the Human Rights Defender.

According to the information provided by the RA Ministry of Justice, 601 applications were received by 329 persons on hunger strike in 2020, in which the main reasons were related to criminal cases, decisions of the Central Penitentiary Commission, personal and health problems, mental imbalance and other circumstances.

Despite the fact that the number of persons deprived of their liberty has significantly decreased in 2020 compared to 2019, there has been an almost double increase in the number of cases of refusal to eat.

Thus, according to the information provided by the Ministry of Justice, in 2019, 393 applications were received by 245 persons to go on hunger strike.

During the monitoring visit to the ‘’Armavir’’ penitentiary institution, it was revealed that the persons deprived of their liberty went on a hunger strike to be relocated to another block due to interpersonal conflicts.

As a result of the monitoring and analyses of individual applications, it was found that the reasons for the hunger strike were also issues related to the organization of medical assistance, such as the discharge of a person deprived of liberty from the ‘’Hospital for the Convicted’’ or other in-patient facilities, sometimes inadequate cell or accommodation conditions, failure to provide adequate medical assistance, including failure to perform examination and relocate to the medical facilities of the healthcare system.

As a result of the monitoring of those who refused food or water, problems related to the proper conduct of the hunger strike were stated. Thus, the persons who went on strike in the "Armavir " penitentiary institution were kept in different blocks - disciplinary, quarantine cells, medical service block, which in turn created difficulties for them to exercise proper medical assistance. In the ‘’Armavir’’ penitentiary institution, the medical personnel works in the ‘’Treatment Section’’ block and if necessary, they visit the persons deprived of their liberty who have gone on hunger strike in the disciplinary cell, but only a short time after the call.

Failure to provide adequate and timely medical assistance can endanger the health and lives of those deprived of their liberty on hunger strike.

At the time of the monitoring visit, 5 persons went on hunger strike in the "Armavir" penitentiary institution, 2 of whom were in quarantine and 3 in the disciplinary cells. Moreover, one of the persons deprived of their liberty on hunger strike at the time of the visit had stopped the hunger strike three days ago, but was still being held in the disciplinary cell. There was a decision to temporarily (24-hour) isolate the person for one day after the end of the hunger strike in the disciplinary cell. However, the head of

the Penitentiary Institution did not decide to isolate him of her for security reasons for the next few days, as a result of which the person was kept in the disciplinary cell without sufficient grounds.

In connection with the abovementioned, it should be emphasized that the isolation of persons deprived of their liberty in the disciplinary cell without sufficient legal grounds is inadmissible.

During the monitoring visit to the"Armavir" penitentiary institution, it was found out that the persons deprived of their liberty who went on hunger strike were not given daily medical supervision. Thus, in the register of "Visit and medical examination of detainees in the disciplinary cell", as well as in the visit schedule of the medical worker attached to the personal cards of persons deprived of liberty on a hunger strike, the records on medical examination of persons deprived of their liberty on hunger strike were absent for at least 7 days. Moreover, as a result of the study of the records of the abovementioned register it was found that the visit of the medical personnel is combined with the visit of the duty officer, as a result of which the data containing medical information become available to the non-medical personnel. At the same time, the abovementioned register, the schedule of the medical worker 's visit, was kept by the duty officer of the disciplinary cell.

Thus, the medical secret of the person deprived of liberty on hunger strike was not kept, it was available to the non-medical personnel of the Penitentiary Institution, which is inadmissible.

As a result of the monitoring, it was noted that the practice of improper daily medical supervision of the person on hunger strike, including its volume, continues.

Thus, persons on hunger strike are mainly monitored for blood pressure and heart rate, weight control of persons on hunger strike.

The scales were also placed in the office of the person in charge, where the daily weighing of the persons on hunger strike is carried out. It should be noted that in case of a long hunger strike and exhaustion of the organism, the organization of the weighing process outside the cell, in the office of the person in charge, can cause additional difficulties for the person. For example, at the time of the visit, one of the persons deprived of their liberty had been on a hunger strike for 17 days.

In not all cases, objective medical examinations of persons on hunger strike were performed. Studies show that the habitus (appearance), skin and mucous membranes, activity of the gastrointestinal, urogenital, nervous system, exhaustion of the organism, and other health conditions of the persons deprived of their liberty have not been described.

Moreover, permanent medical treatment for chronic illness, taking medications including psychotropic drugs, requires special medical supervision for those deprived of their liberty on hunger strike and on water refusal. There must be a professional reason given by the doctor if any medication is provided and the permanent medication is not provided by the medical personnel.

During the monitoring visit to the‘’Armavir’’ Penitentiary InstitutionAccording to the persons who went on hunger strike, their temperature was not measured but the indicators of temperature measurement were present in the abovementioned registers.

At the time of the visit, the persons on hunger strike had various medications, the use of which without medical supervision could endanger their health.

In connection with the abovementioned, it should be noted that Chapter 18.1 of the Annex to the RA Government Decree No. 1543-Ն of 3 August 2006 defines the peculiarities of the conditions of accommodation of detained and convicted persons who refused to eat. According to paragraph 173.7 of the mentioned Annex, *the person on hunger strike* ***is under constant (daily) medical supervision*** *during the period of hunger strike. The doctor informs the person on hunger strike in understandable language of the risks of further deterioration of health due to refusal of food (or) water and the steps that must be taken to ensure that the health of the person on hunger strike does not deteriorate.*

It is noteworthy that persons with mental health problems sometimes refuse to eat, which can be a symptom of the disease. In such a case, a psychiatric consultation should be organized immediately, as well as consistent medical supervision to take the medication prescribed to the patient in a timely manner, if necessary.

In case of refusal of food (or water) from persons with mental health problems or psychiatric symptoms, it is necessary to consult a psychiatrist and to exercise strict control.

Taking into account the abovementioned problems, it is necessary to:

- ✓ ***Ensure proper medical supervision of persons on hunger strike, in particular its availability and preservation of medical confidentiality;***
- ✓ ***Establish individual medical supervision, including, if necessary, specialized professional advice for each person deprived of liberty on hunger strike by regularly informing them of the negative health consequences of the hunger strike;***
- ✓ ***Take steps to repair the taxophone in the disciplinary cell department;***
- ✓ ***Exclude the isolation of the person who has stopped the hunger strike without a valid reason, moreover, to ensure the continuous medical supervision of the latter;***
- ✓ ***Exclude the taking of medications by the persons deprived of their libertyon refusing food without medical supervision.***

4.1.16. Medical supervision of persons deprived of their liberty in disciplinary cells (''Kartzer'')

In the framework of the monitoring visits and the discussion of individual complaints addressed to the Human Rights Defender, the cases of using the disciplinary cell as a disciplinary penalty and the medical supervision of persons deprived of their liberty in Penitentiary Institutions were studied.

Thus, during the monitoring visits, it was stated in the Penitentiary Institutions that persons deprived of their liberty transferred to the disciplinary cell were subjected to daily medical supervision. However, during the visit, the persons deprived of their liberty held in the disciplinary cell of the ''Armavir'' Penitentiary Institution informed that the medical personnel works in the ''Treatment Section'', and if necessary, they visited the disciplinary cell after a long period from the call.

Moreover, the study of the register of "Visit and medical examination of detainees in the disciplinary cell" of the ''Armavir'' Penitentiary Institution revealed that the visit of the medical personnel is combined with the visit of the duty officer and the data containing medical information become available to non-medical personnel. At the same time, the duty officer of the disciplinary cell department maintains the abovementioned register and the schedule of the medical worker's visit.

Ensuring the right to health of a person deprived of their liberty should be crucial when imposing a penalty on transfer to a disciplinary cell. Medical supervision of a person deprived of liberty is also aimed at preventing and detecting cases of torture and ill-treatment, and properly organizing an effective investigation into those cases.

With this in mind, medical visits should be conducted separately, out of earshot of the penitentiary staff and unless the doctor requires otherwise, out of sight.

Therefore, it is necessary to:

- ✓ ***Carry out medical supervision of persons in disciplinary cell conditions without being accompanied by Penitentiary officers;***
- ✓ ***Take steps to exclude the availability of the information on medical supervision of persons deprived of their liberty being in the disciplinary cell for non-medical personnel of the Penitentiary Institution.***

4.1.17. Organization of medico-social expertise

As a result of the complaints raised during the monitoring and addressed to the Human Rights Defender, problems continue to be identified with the establishment of a disability group for persons deprived of their liberty.

According to the RA Government Decree No. 665-Ն [125] of 5 May 2011, the order for medico-social expertise of persons serving sentences in Penitentiary Institutions sets clear deadlines and procedures, however, problems arise connected with the organization of necessary examinations and consultations with specialists for ensuring the process of the organization of medico-social expertise (MSE) and medical expertise, as well as submitting the abovementioned documents to the MSE Commission.

Thus, on the 16th of April, 2020, the person deprived of their liberty kept in the ‘’Armavir’’ penitentiary institution with their complaint addressed to the Human Rights Defender informed that on the 26th of March, 2019, they had applied to the head of the mentioned institution for examination and medico-social expertise in the medical facility of the healthcare system, but , it was not organized. Regarding the case, the Ministry of Justice of the Republic of Armenia announced on the 19th of May, 2020 that it had organized the medical examinations of the person deprived of liberty, the relevant package had been sent to the MSE Commission No. 7, but no response had been received. On the 15th of November, 2019, the person deprived of liberty was transferred to the "Hospital for the Convicted" penitentiary institution for examination and treatment purposes, and on the 16th of January, 2020, he again applied for a medico-social expertise, this time to the head of the "Hospital for the Convicted" penitentiary institution. Then, the necessary examinations were organized in the medical facility of the healthcare system on the 13th of May, 2020, the results of which were sent to the medico-social expertise commission on the 15th of May, 2020 by the petition of the head of the "Armavir" penitentiary institution of the RA Ministry of Justice, and as a result, a disability group has been defined

Thus, the person deprived of liberty did not undergo the necessary medical examinations for a long period of time; and the procedure for appointing them in a disability group started about 1 year after the application, only after the mediation of the Human Rights Defender.

In another case, a person deprived of liberty applied to the head of the ‘’Artik’’ penitentiary institution in October 2019 for a medico-social expertise. However, only after organizing the necessary medical examinations, on the 25th of May, 2020, the head of the ‘’Artik’’ penitentiary institution submitted a petition to the relevant department of the RA Medico-Social Expertise Office, as a result of which only on the 27th of October, 2020, the latter underwent a medico-social expertise and a disability group has been defined.

Delays in organizing the necessary medical examinations for persons deprived of their liberty to undergo a medical and social examination and to proceed the case accordingly lead to the violation of their social security rights.

[125] RA Government Decree No 665-N of 5 May 2011 "On Ensuring the Implementation of the Law of the Republic of Armenia " On State Pensions ".

It should be noted that the issue raised by the Human Rights Defender as a result of the violation of the social security rights of a person deprived of liberty registered in the Annual report on the activities of the National Preventive Mechanism in 2019 has not been resolved, which refers to the issue of compensation for material damage caused to a person as a result of untimely organization of medico-social expertise[126].

Thus, based on the results of the study, it can be concluded that in order to properly organize the process of defining disability with respect to persons deprived of their liberty in penitentiary institutions, it is necessary to organize their process, necessary medical consultations and examinations without delay.

4.2. Overcrowding, uneven placement of inmates to cells

There are still problems of overcrowding in Penitentiary Institutions and unequal distribution in cells. This is evidenced by the Human Rights Defender's monitoring visits under the status of the National Preventive Mechanism, as well as individual complaints addressed to the Human Rights Defender.

According to the official data provided by the Ministry of Justice of the Republic of Armenia, as of 31 December, 2020, the number of persons deprived of their liberty in Penitentiary Institutions and the defined inmate capacity have the following picture *(overcrowded Penitentiary institutions are underlined).*

Penitentiary Institution (PI)	Medical Correctional Institution (by inmate capacity)	Open CF (by inmate capacity)	Open CF as of 31.12.2020	Semi-open CF (by inmate capacity)	Semi-open CF as of 31.12.2020		Semi-closed CF as of 31.12.2020		Closed SF	Custodial places	Custodial places as of 31.12.2020	Subject to placement	Subject to placement as of 31.12.2020	TOTAL (by inmate capacity)	
"Nubarashen" PI	-	10	-	40	1	**40**	**44**	100	39	590	193	-	-	780	277
"Armavir" PI	-	5	-	83	2	550	203	402	84	**200**	**408**	-	2	1240	699
"Abovyan" PI	-	29	2	81	15	40	13	15	-	100	22	-	-	265	52

[126] See: https://www.ombuds.am/images/files/f6bccc6db65258e28be6f3e093987a15.pdf webpage, as of 31.03.2021, pages 220-222.

"Yerevan-Kentron'' PI	-	-	-	5	-	3	2	7	5	45	13	-	-	60	20
"Vardashen" PI	-	200	30	70	24	25	13	10	1	**34**	**40**	-	-	339	108
''Hrazdan'' PI	-	-	-	4	-	**71**	**73**	60	19	80	64	-	-	215	156
"Vanadzor" PI	-	5	-	15	1	75	60	65	26	80	47	-	-	240	134
"Artik" PI	-	25	4	141	39	54	31	103	42	50	34	-	1	373	151
"Goris" penitentiary	-	50	-	7	3	**15**	**19**	60	24	50	43	-	-	182	89
"Sevan" PI	-	15	1	533	95	-	-	-	-	-	-	-	-	548	96
''Kosh'' PI	-	25	-	615	79	-	-	-	-	-	-	-	-	640	79
"Hospital for the Convicted''. PI[127]	424	10	-	14	14	**5**	**25**	**5**	**17**	**6**	**50**	-	-	464	106
TOTAL	**424**	**374**	**37**	**1608**	**273**	**878**	**483**	**827**	**257**	**1235**	**914**	**-**	**3**	**5346**	**1967**

In this regard, the CPT stated in its second general report that *the need to keep a larger number of persons in a place of deprivation of liberty has an extremely negative impact on all services and measures taken there; significantly reducing the overall quality of life. Moreover, the degree of overcrowding of a place of deprivation of liberty or any part of it may in itself be inhuman or degrading*[128].

The case law of the European Court of Human Rights consistently reflects the principled legal position that *holding persons deprived of their liberty in conditions of overcrowding may in itself be considered inhuman or degrading treatment, even if the competent authorities did not pursue such a goal*[129].

[127] The number of persons deprived of their liberty in Correctional Institutions (open, semi-open, semi-closed and closed) of the ''Hospital for the Convicted'' penitentiary institution is provided according to the placement in Correctional Institutions made by the Placement Commission of the Central Body of Penitentiary Authority of the Ministry of Justice of Republic of Armenia, the latters, however, are kept in Medical Correctional Institution under the conditiond foreseen for semi-open correctional institution.

[128] See: https://rm.coe.int/1680696a3f webpage, as of 31.03.2021, paragraph 46.

[129] See: Judgement made on the 16th of June, 2005 on the case of *''Labzov v. Russia''*, Application no. 62208/00, Para. 44; Judgement made on the 2nd of June, 2005 on the case of *''Novoselov v. Russia''*, Application no. 66460/01, Para. 41; Judgement on the 20th of January, 2005 on the case of *''Mayzit v. Russia''*, Application no. 63378/00, Para. 39; Judgement on the 2d of June, 2005 on the case of *''Novoselov v. Russia''*, Application no. 66460/01, Para. 41; Judgement made on the

It should be noted that the European Court of Human Rights has also stated the violation of Article 3 of the European Convention on Human Rights in connection with the absence of a minimum of personal space with a number of judgments made on Armenia[130].

Studies on the placement of persons deprived of their liberty have shown that the unequal placement of inmates to cells is not always due to the requirements set by the legislation or for security and coexistence purposes.

For example, during a visit to the "Yerevan-Kentron" penitentiary institution, according to information provided by the administration, convicted and detained persons are sometimes kept together in cells of the Penitentiary Institution (despite the legal requirement to keep them separate) because the number of cells is limited and it is impossible to follow the rule of keeping the latter separate.

In response to the Human Rights Defender's annual inquiry, the Ministry of Justice of the Republic of Armenia provided information that in 2020, appropriate construction works were carried out in the ‘’Armavir’’ penitentiary institution to create the necessary living conditions for a semi-open correctional institution with up to 200 inmate capacity. As a result of the work done, about 190 persons deprived of their liberty in the 2nd sector of the Penitentiary Institution were provided with proper living conditions of the semi-open correctional institution, 48 cells were reconstructed and decorated, each with a total living area of 18 square meters with a separate toilet. According to the Ministry of Justice, the cells are intended for a maximum of 4 persons, each person is provided with an area of more than 4 square meters, which does not include the toilet.

The issues related to the visits made by the representatives of the National Preventive Mechanism and the transfer of persons deprived of their liberty to open correctional institutions as a result of stated in their studies during the visits were addressed in the *annual* reports[131] on the activities of the RA Human Rights Defender as the National Preventive Mechanism.

The abovementioned issue remains relevant in 2020 as well. According to the information provided by the Ministry of Justice of the Republic of Armenia on the inmate capacity of correctional institutions in Penitentiary Institutions and the persons deprived of their liberty actually keept there, only 37 persons

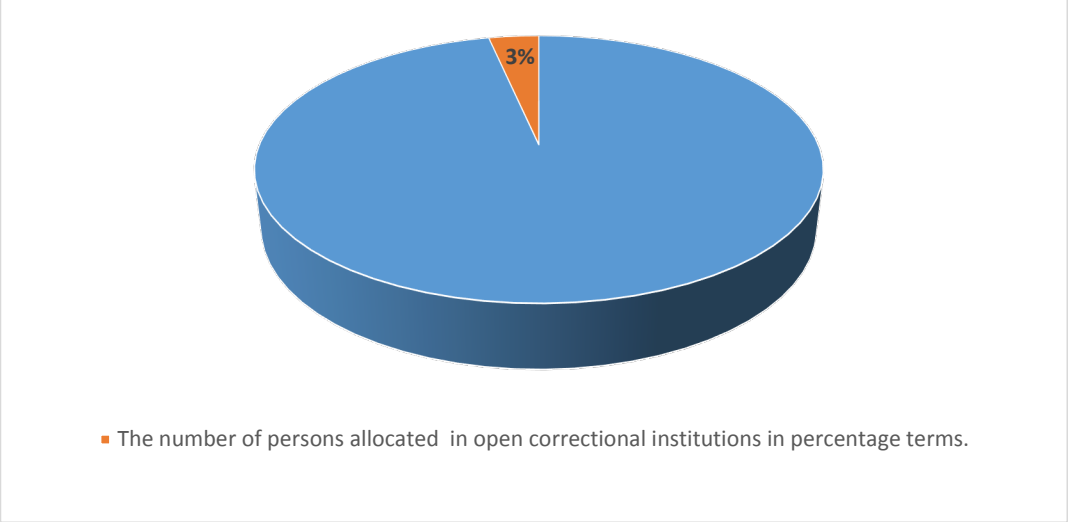
15th of June, 2002 on the case of *‘’Kalashnikov v. Russia’’*, Application no. 47095/99, Para. 97; Judgement made on the 19th of April, 2001 on the case of ‘’Peers v. Greece, Application no. 28524/95, Para. 69, etc.

[130] See: Judgement made on the 2d of December, 2008 on the case of *‘’Kirakosyan v. Armenia’’*, Application no. 31237/03, Para-s 40-59; Judgement made on the 27th of October, 2009 on the case of *‘’Karapetyan v.Armenia’’*, Application no. 22387/05, Para.-s 33-47.

[131] See: https://www.ombuds.am/images/files/7f468a417e011c000153bd1bf64a05e0.pdf , https://www.ombuds.am/images/files/dcc37ac516d1268bb59999f72c76d982.pdf and https://www.ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpages, as of 31.03.2021, pages 51-53, 201-207 and 222-227.

deprived of their liberty were placed in open correctional facilities in Penitentiary Institutions with 374 inmate capacity.

It should be noted that in the conditions of the same 374 inmate capacity, in 2018 13 persons were placed in an open correctional institution, and in 2019 - 23 persons deprived of their liberty were placed there. Although there has been a tendency of increase in the number of persons placed in open correctional institutions over the past three years, therefore the ratio of inmate capacity to actual number of persons kept continues to indicate a lack of a flexible mechanism for regime change. Analysis of statistical data shows that only **37** out of **1,053** persons sentenced to imprisonment are placed in open correctional facilities.



In this regard, paragraph 1 of part 1 of Article 102, of the RA Penitentiary Code stipulates that *convicted persons may be transferred to an open correctional institution to serve their sentence (...) on the basis of* ***their positive behaviour****. According to Article 101 of the RA Penitentiary Code, the type of correctional institution to serve the sentence is changed by the Placement Commission of the RA Ministry of Justice, taking into account* ***the behaviour of a person sentenced to a certain term or life imprisonment,*** *appropriateness* ***of degree of isolation and rules for keeping convicted persons separate in the correctional institution provided by RA Penitentiary Code .***

It is clear from the wording of these provisions that changing the type of correctional institution does not take into account the crime committed by the person deprived of liberty, but the behaviour of the person, the appropriateness of the degree of isolation, the relevant rules for keeping convicted persons in correctional institutions and other requirements of the Code.

The RA Ministry of Justice noted that in accordance with the RA Government Decree No. 1717-Լ "On Approving Penitentiary Probation Strategy of the Republic of Armenia for 2019-2023, the Programme of Measures for its Implementation for 2019-2023, the Financial Evaluation of the Programme and the Formation of the Council Coordinating the Implementation of the Programme and the Procedure of the Organization of its Activities'' it is planned to close the ''Nubarashen'' of 28 November 2019, ''Hospital for the Convicted'' and ''Goris'' penitentiary institutions within the framework of improving the living conditions of persons deprived of liberty in the Penitentiary Institutions and optimization of the Penitentiary Institutions and instead of them to build around new Penitentiary Institutions with 1200 (200 beds is intended for the persons in need of treatment) and 350 inmate capacity. it is planned to dissolve ''Hrazdan'' penitentiary and in the administrative territory of the ''Sevan'' penitentiary institution, to build a closed, semi-closed regime places for detainees including a block provided for the detention type of punishment with the inmate capacity intended for the ''Hrazdan'' penitentiary institution .

The implementation of the abovementioned issues in the 2019-2023 Strategy Implementation Plan is welcome, but given that their implementation requires a long period of time, it is necessary to urgently address the issue of introducing a flexible mechanism for changing the overcrowding regime in prisons.

Summing up the abovementioned, it should be emphasized that the State should take continuous steps to provide persons deprived of their liberty with personal space in line with national and international standards. The issue should be considered both from the point of view of each person deprived of liberty of the minimum living space (four square meters) and from the point of view of providing personal space with conditions compatible with human dignity.

At the same time, urgent steps need to be taken to introduce a flexible mechanism for the gradual change of regimes in the Penitentiary Institution, from a strict regime to a mild one.

4.3. Absence of cells or accommodation areas for the detained and convicted pregnant women or women with children under three years of age

Last year's report on the activities of the Human Rights Defender as the National Preventive Mechanism raised the issue of the lack of special cells or accommodation areas for the detained and convicted pregnant women or women with children under three years of age in the ''Abovyan'' penitentiary institution, as well as the issue of the absence of conditions specific to their needs[132]. In particular, it was

[132] See: https://www.ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpage, as of 31.03.2021, pags 227-229.

stated that the Penitentiary Institution does not have a furnished bathroom and toilet for child care, an outdoor exercise yard with a separate well-equipped playground, etc.

In connection with the abovementioned, the Human Rights Defender noted that **in the ‘’Abovyan’’ Penitentiary Institution, the detained and convicted pregnant women or women with children under three years of age should be provided with special conditions of adequate care and to create an environment conducive to the child's physical and mental development.**

In response to the Human Rights Defender's inquiry on the construction and repair works carried out in the "Abovyan" penitentiary institution, the RA Ministry of Justice provided information that no construction works were carried out in the "Abovyan" penitentiary institution in 2020.

According to the information received, one convicted person continues to live in the "Abovyan" penitentiary institution with a small child. Thus, the issue raised by the Human Rights Defender remains unresolved.

The shortcomings of the legislative regulation also hinder the solution of the problem. Thus, paragraphs 79-87 of the Annex to the RA Government Decree No. 1543-Ն of 3 August 2006, despite defining some peculiarities of the living conditions for the detained and convicted pregnant women or women with children under three years of age in the places of detention and in correctional institutions, however, they do not sufficiently reflect the possibility of having an environment relevant the needs of the abovementioned group.

These legal provisions stipulate that the detained and convicted pregnant women or women with children under three years of age are placed in a place of detention or correctional institution in such a way as to minimize contact with other detained or convicted persons, which is practically ensured only in solitary confinement in a cell.

Though The Ministry of Justice has stated that the convicted woman living with a child is provided with essentials to meet the basic necessities of life, keeping them in separate conditions is of key importance.

The Ministry of Justice of the Republic of Armenia also informed that renovation works are planned in the "Abovyan" penitentiary institution, within the framework of which it is planned to separate a cell and accommodation area for pregnant women and children up to three years old, which will be provided with hot water, a toilet with a toilet bowl, a bathroom and with other essentials. According to the Ministry of Justice, it is planned to build a playground and a green outdoor exercise yard for children under the age of three, which is welcome.

Thus, based on the abovementioned, it is necessary to:

- ✓ ***Separate and properly furnish a cell (accommodation area) for pregnant women with the child up to three years old deprived of their liberty;***

- ✓ ***To adapt the toilets and bathrooms of the intended cells and accommodation areas to the special needs of a pregnant woman and children up to three years old, that is, to provide hot water, a toilet equipped with a toilet bowl, a bathroom, and other essentials;***
- ✓ ***Provide games necessary for children's development and accessories as well as programmes;***
- ✓ ***Provide for children up to three years old and furnish a separate playground and green outdoor exercise yard;***
- ✓ ***Review legislative regulations to create an environment conducive to the healthy physical and mental development of a pregnant woman and her child under the age of three while in imprisonment.***

4.4. Issues related to keeping non-smoker persons deprived of their liberty in the same cell or barrack with smokers

The issue of keeping non-smokers deprived of their liberty in the same cell (barrack) with smokers remains unresolved, which has been raised many times by the Human Rights Defender in recent years.

During previous monitoring visits, there were a number of cases where non-smokers were held in the same cell (barrack) as smokers. In this regard, the non-smokers informed that the administration of the correctional institution did not take into account the fact that they were not smokers when allocating the inmates to cells.

As a result, because of the secondary harmful effects of smoking[133] (or, in other words, passive smoking), damage is caused to the health of non-smokers deprived of their liberty, sometimes creating a situation where the rules of coexistence are violated. Such conditions create conflict situations between persons deprived of their liberty.

It is noteworthy that in connection with the issue, there is the Order No. 96-Ն of the Head of the Penitentiary Service "On establishing additional guarantees for the protection of the rights of non-smoking convicted and detained persons" of 8 April 2015, according to which *in the absence of legal restrictions set forth in the Penitentiary Code, the placement of detained or convicted persons in cells (barracks) should be organized as far as possible in such a way as to minimize the cases of keeping non-smokers in the same cell (barrack) with smokers.*

[133] According to paragraph 13 of part 1 of Article 1 of the RA Law ''On Reducing and Preventing the Negative Impact of Tobacco Use'', secondary smoke is defined as smoke that is present in the air where persons smoke or have smoked before, including Smoke exhaled by a user of a tobacco product or a substitute for a tobacco product.

Pursuant to paragraph 15 of the Annex to the RA Government Decree No. 1543-Ն[134] of 3 August 2006, *(...) detainees shall be placed in cell and are kept separate in the places of detention or according to the RA Law ''On Keeping Detainees and Arrestees'', and the convicted persons are placed to cells and barracks in accordance with the RA Penitentiary Code, taking into account the compatibility, health condition and security of the persons.*

Despite the abovementioned legislative regulations, the observations made show that they are discretionary, ineffective and the problem of keeping non-smokers deprived of their liberty in the same cell (barrack) with smokers has long remained unresolved.

The Human Rights Defender stated in their previous reports on the activities of the National Preventive Mechanism that the abovementioned problem is of a systemic nature, and there is a need for a legislative solution.

The European Court of Human Rights has also expressed its legal position on this issue. Thus, the applicant in the case of *''Elefteriadis v. Romania''*, who suffered from chronic lung disease, was held for about 10 months in the same cell with two other persons deprived of their liberty, who, unlike them, were smokers. At the same time, the applicant participated in a number of court hearings and was kept in the same cells with smokers in court. In addition, the applicant alleged that he had been adversely affected by cigarette smoke on their way from court to prison.
In this case, the European Court found a violation of Article 3 of the European Convention, stating *that the State is obliged to take measures to protect persons deprived of their liberty from the harmful effects of secondary smoke, provided that the doctor''s advice and medical examination testify to that (as in the applicant's case).) that it is necessary for health reasons*[135].

In connection with this issue, the CPT proposed in its 2007 report on Germany to review *the policy and practice of allocating persons deprived of their liberty by cells (barrack), taking into account the problems of passive smoking*[136].

In response to the Human Rights Defender's inquiries about the steps taken to resolve the issue, the Ministry of Justice of the Republic of Armenia provided information that the work on secondary smoking harm among persons deprived of their liberty in Penitentiary Institutions is carried out through consultations provided by Doctors of the ''Penitentiary Medical Center'' SNCO. In addition, the RA Ministry of Justice reported that a joint Decree of the RA Minister of Justice and the Ministry of Health of the Republic of Armenia had been developed to implement measures aimed at preventing the use of

[134] RA Government Decree No. 1543-Ն "On Approval of the Internal Regulations of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia on Detention Facilities and Correctional Institutions" of 3 August 2006.

[135] See: Judgement made on the 25th of January, 2011 on the case of *''Elefteriadis v. Romania''*, Application no. 38427/05, Para. 49.

[136] See: https://rm.coe.int/1680696304 webpage, as of 31.03.2021, paragraph 117.

tobacco products, substitutes for tobacco products, and reducing the negative impact of cigarette smoke. Accordingly, *when considering the placement of detained or convicted persons in cells or barracks, the fact that detained or convicted persons smoke should be taken into account, stating in the placement decision and during the placement process, it should be ensured that the cases of keeping non-smokers with smokers in the same cell or barrack are minimized.*

According to the Ministry of Justice, the mentioned project has already been signed by the RA Minister of Justice and sent to the RA Minister of Health to be signed.

The steps taken by the RA Ministry of Justice to ensure the rights of non-smokers deprived of their liberty are, of course, welcome, however, it is necessary to enshrine at the legislative level a mandatory condition for keeping non-smokers deprived of their liberty due to their health condition.

Thus, in order to solve the problem under discussion, it is necessary to:

- ✓ ***Approve and implement clear programmes aimed at informing persons deprived of their liberty about the damage caused by secondary smoke;***
- ✓ ***Ensure the fuller application of the Order No. 96-L of the Head of the Penitentiary Service "On Establishing Additional Guarantees for the Protection of the Rights of Non-Smoking Convicted and Detained Persons" of 8 April 2015, to include the issue of restricting the detention of non-smokers in the same cell (barrack) with smokers in the courses organized for it;***
- ✓ ***In addition to the general rule of keeping non-smokers deprived of their liberty from smokers, initiate legislative changes, providing for a non-discretionary but mandatory condition for keeping non-smokers deprived of their liberty on the basis of a medical condition based on medical indication.***

4.5. Issues related to ensuring the rights of foreigners deprived of their liberty

The Human Rights Defender's focus is also on the rights of foreigners deprived of their liberty in Penitentiary Institutions.

The report on the activities of the Human Rights Defender as the National Preventive Mechanism in 2019 raised issues related to ensuring the rights of foreigners deprived of liberty who do not speak Armenian[137]. In particular, it was noted that there are no translators in Penitentiary Institutions, the

[137] See: https://www.ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpage, as of 31.03.2021, pages 290-296

number of penitentiary staff and the medical personnel of the subdivisions of the ‘’Penitentiary Medical Center’’ SNCO communicating in languages other than Russian and is very small, which causes serious inconvenience to foreigners deprived of their liberty. The latter do not have the opportunity to fully participate in cultural events organized in Penitentiary Institutions, as well as to use medical, psychological and legal services.

In order to ensure that foreign persons deprived of their liberty have the opportunity to communicate with Penitentiary Institutions, the Human Rights Defender has suggested hiring translators, developing phrasebooks, acquiring special translation equipment, or providing relevant foreign language courses for penitentiary officers.

It should be noted that the problem remained unresolved in 2020. According to the information provided by the Ministry of Justice of the Republic of Armenia, as of 30 December 2020, 107 foreigners deprived of their liberty were kept in 11 Penitentiary Institutions (61 detained persons, 46 convicted persons), which made up 5.4% of the total number of persons deprived of their liberty. Moreover, the majority of foreigners were deprived of liberty - 57 persons - in the "Armavir" penitentiary institution. A relatively large number of foreigners were also kept in ‘’Nubarashen’’ (17 persons), ‘’Vardashen’’ (9 persons), ‘’Abovyan’’ (9 persons), ‘’Hospital for the Convicted’’ (5 persons) and ‘’Sevan’’ (4 persons) penitentiary institutions. In the ‘’Yerevan-Kentron’’penitentiary institution -2, and in the "Artik", "Vanadzor", "Goris" and "Kosh" Penitentiary Institutions - 1 foreigner deprived of liberty per each.

Within the framework of the National Preventive Mechanism, special attention was paid to foreign persons deprived of their liberty held in Penitentiary Institutions; citizens of Georgia, Iran, Lebanon, Iraq, Russia, Kazakhstan, China, Pakistan, Greece, the Netherlands, Sweden, Ukraine, the United States, Peru, Venezuela, Guatemala, Costa Rica, the Dominican Republic, and a number of other countries.

In response to the Human Rights Defender's question on ensuring communication with persons deprived of their liberty who do not speak Armenian, the RA Ministry of Justice stated that foreigners entering a Penitentiary Institution are introduced to their rights and responsibilities in a language they can understand, including the internal regulation of the Penitentiary Institution. According to the Ministry of Justice, there are Russian, Georgian, Persian, and English versions of the detained and convicted persons’ basic rights and responsibilities in Penitentiary Institutions, which were posted in visible places and provided to them.

Given the significant number of Spanish-speaking and Arabic-speaking persons deprived of their liberty in Penitentiary Institutions, it is desirable that the basic rights and responsibilities of detained and convicted persons be translated into at least those languages.

The RA Ministry of Justice noted that there are some difficulties in communicating with persons deprived of their freedom who do not speak Armenian. The work is not fully implemented due to the

lack of translators. Communication with foreigners deprived of their liberty is carried out in the language spoken to some extent by the foreigner and the penitentiary officer.

As noted in the Human Rights Defender's report last year as the National Preventive Mechanism, communication with foreigners who do not speak Armenian is sometimes done with the help of other persons deprived of their liberty who master Armenian or a relevant foreign language.

According to the Ministry of Justice, the abovementioned method is also used in the communication between persons deprived of their liberty who do not speak the Armenian language and the representatives of the medical personnel of the subdivisions of the "Penitentiary Medication Center" SNCO.

It should be emphasized that the abovementioned language problem is an obvious obstacle to the satisfaction of the basic needs of foreigners deprived of their liberty, including the provision of medical assistance and social-psychological integration in the environment.

It is obvious that in such a case the Penitentiary Institutions do not have the opportunity to ensure the right to health care of foreigners deprived of liberty, as well as the right to receive social and psychological assistance or to use other available services. From this point of view, the question arises as to how correctional and resocialization work can be carried out with such convicted persons.

The CPT also expressed its position on the issue. In particular, in its 2015 report on Gibraltar, the CPT stated *that if the penitentiary administration did not speak the language of the persons deprived of their liberty kept there, the involvement of appropriate translation services should be ensured in order to facilitate communication with them*[138].

The CPT stated in its 1994 report on Greece that *a large number of foreigners deprived of their liberty were being held in Penitentiary Institutions, some of whom did not have a full understanding of the institution's regime or their rights and responsibilities, and as well as there are serious complications in the regard of the communication between foreigners deprived of their liberty and the administration and the penitentiary institution. Such a situation can lead to misunderstandings and disputes.* The CPT therefore suggested *that appropriate steps be taken to address these difficulties (for example, the procedure and regime in a penitentiary institution, the rights and responsibilities of persons deprived of their liberty and penitentiary officers, as well as the preparation of information booklets on appeal and disciplinary procedures and translation into appropriate foreign languages, translation of the most*

[138] See: https://hudoc.cpt.coe.int/eng#%7B%22fulltext%22:[%22gibraltar%22],%22sort%22:[%22CPTDocumentDate%20Descending,CPTDocumentID%20Ascending,CPTSectionNumber%20Ascending%22],%22CPTDocumentType%22:[%22vr%22],%22CPTSectionID%22:[%22p-gbr-20141113-en-12%22]%7D webpage,as of 31.03.2021, paragraph 38.

frequently used expressions in the everyday relations between persons deprived of their liberty and penitentiary officers, basic foreign language training for penitentiary officers)[139].

Thus, the Human Rights Defender reaffirms that the absence of proper communication with foreigners deprived of their liberty in a Penitentiary Institution in a language they can understand continues to be an obstacle to the realization of their rights.

During the monitoring visit in 2020, it was recorded that foreigners deprived of their liberty actively use video calling, which is welcome. In particular, the study of the records made in the video call register of the "Armavir" penitentiary institution showed that most of the video calls made in the Penitentiary Institution were made by the latter.

The Ministry of Justice of the Republic of Armenia noted that in 2020 the libraries of Penitentiary Institutions were replenished with about 400 titles of fiction and religious literature, including foreign languages.

Of course, this is welcome, but it can not fully ensure the targeted employment of foreigners deprived of their liberty, it is necessary to take continuous steps in this direction, involving the latter in the relevant cultural and sports programmes organized in Penitentiary Institutions.

At the same time, it should be noted that during the monitoring visits in 2020, the Human Rights Defender's representatives placed information posters on the mandate of the National Preventive Mechanism distributing information leaflets to persons deprived of their librty in seven languages (Armenian, English, Russian, French , Spanish, Persian and Arabic).

Therefore, based on the problems listed abovementioned, it is necessary to:

- ✓ ***Ensure the protection of the rights of foreigners deprived of their liberty in Penitentiary Institutions, to provide them with the opportunity to communicate properly with the administration of the Penitentiary Institution through the involvement of translators in Penitentiary Institutions, the development of phrasebooks, the acquisition of special translation equipment or the provision of appropriate foreign language training for penitentiary officers;***
- ✓ ***Properly inform foreigners deprived of their liberty of their rights and responsibilities in an understandable language;***
- ✓ ***Organize communication with persons deprived of their liberty who do not speak Armenian during the provision of medical assistance and service and establish strict control over the provision of proper medical assistance;***
- ✓ ***Ensure the targeted employment of foreign persons deprived of their liberty, by***

[139] See: https://rm.coe.int/16806964c9 webpage, as of 31.03.2021, paragraph 102.

involving them in cultural and sports programmes organized in the Penitentiary Institution, at the same time, to create an opportunity for them to use literature in a language they understand;

- ✓ ***Involve foreigners deprived of their liberty in relevant activities in Penitentiary Institutions.***

4.6. Conditions in quarantine departments (cells) and disciplinary cells (''Kartzer'')

During the visits in 2020, the quarantine departments (cells) and disciplinary cells of the Penitentiary Institutions were examined**.**

It should be noted that the issue of insufficient living conditions in quarantine departments and disciplinary cells of Penitentiary Institutions has been raised by the Human Rights Defender for years[140].

According to paragraph 10 of the Annex to the RA Government Decree No. 1543-Ա[141] of 3 August 2006, *after the admission of detained persons to a place of detention and convicted persons to a correctional institution, for the purposes of undergoing a medical examination or to get acquainted with the conditions of the place of detention and correctional institution, they are accommodated in the cells of the quarantine department intended for that purpose.* According to paragraph 15 of the same Annex*, detained or convicted persons are placed to cells or barracks during their stay in the quarantine department, where detained or convicted persons are transferred after the work in the quarantine department has been completed.*

According to the information provided by the Ministry of Justice of the Republic of Armenia in connection with the isolation of suspicious cases in order to prevent the novel Coronavirus (COVID-19) pandemic, at least one cell has been separated in Penitentiary Institutions to isolate persons with symptoms of the novel Coronavirus (COVID-19) and taking into account the number of possible days for the detection of signs of disease, the number of days for keeping persons deprived of their liberty in the quarantine department has been extended from 7 to 14.

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[140] See the Annual reports on the activities of the RA Human Rights Defender as the National Preventive Mechanism in 2016, 2017, 2018 and 2019. https://www.ombuds.am/images/files/ef5f900e0dc568da83fe60b18c608e2e.pdf , https://www.ombuds.am/images/files/7f468a417e011c000153bd1bf64a05e0.pdf , https://www.ombuds.am/images/files/dcc37ac516d1268bb59999f72c76d982.pdf and https://www.ombuds.am/7efb webpages, as of 2021, pages. 25-26, 56-58, 210-212 and 236-239.

[141] RA Government Decree No. 1543-Ա "On Approval of the Internal Regulations on Detention Facilities and Correctional Institutions of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia " of 3 August 2006.

During a visit to the ‘’Armavir’’ penitentiary institution, three cells were separated in the quarantine department to isolate suspected cases of the novel Coronavirus (COVID-19), which did not have windows to provide natural light and ventilation.

Such conditions in quarantine cells do not contribute to the proper organization of health care for persons deprived of their liberty.

During the monitoring, it was found that despite the requirement of 14 days of compulsory maintenance, persons deprived of their liberty entering the Penitentiary Institution were compulsorily kept in the quarantine department for up to 7 days, after which they were distributed according to the blocks.

It should be noted that the quarantine department of the ‘’Armavir’’ penitentiary institution has only 8 cells, and at the time of the visit, 772 persons deprived of their liberty (414 of whom were detainees) were held in the institution. As a result, it was not possible to physically secure the 14-day isolation of persons entering the Penitentiary Institution, as a result of which some of the latter were kept in the disciplinary cells block of the Penitentiary Institution for the quarantine purposes.

At the time of the visit, 2 persons went on hunger strike in the quarantine department of the "Armavir" penitentiary institution, and 3 persons on hunger strike in the disciplinary cells.

The taxophone in the disciplinary block of the institution did not work. The mentioned issue was raised during the private interviews with the representatives of the Human Rights Defender by the persons on hunger strike kept in the disciplinary cell, noting that in order to connect with their relatives and lawyers, they have to use the taxophone of the quarantine department located in another block ,which creates additional difficulties for the person on hunger strike.

The Ministry of Justice of the Republic of Armenia stated in the clarifications on the problems registered in the ‘’Armavir’’ penitentiary institution, that the malfunction of the taxophone placed in the disciplinary cell block of the institution was eliminated.

During the visit to "Yerevan-Kentron" penitentiary institution, it was found that there is one quarantine cell in the institution. According to the information provided by the administration, another cell served as a quarantine cell at the time of the visit.

During the monitoring it was stated that most of the cells of the penitentiary institution need to be repaired. The toilet of the cell is mainly separated from the living area by a half wall or a curtain.

Only 2 of the cells of the institution were renovated, where the toilet was completely separated from the living area.

The toilets of the cells of the penitentiary institution were equipped with toilet bowls, and there wre TVs and refrigerators in the studied cells (except for the cells used as a quarantine cell).

There was no disciplinary cell in "Yerevan-Kentron" penitentiary institution.

In response to the Human Rights Defender's inquiry on the provision of quarantine departments (cells) in penitentiary institutions, and on the toilets separated from the incomplete wall in the cells and disicipllinary cells still existing in the Penitentiary Institutions, the measures taken to separate them completely, the RA Ministry of Justice provided information that except for the "Yerevan-Kentron" penitentiary institution, in all Penitentiary Institutions, the cells, including the toilets of the disiciplinary cells are separated by a wall, and all the Penitentiary institutions are provided with quarantine departments (cells).

In this regard, it should be noted that the Ministry of Justice in its explanations mentioned that the toilets of the cells are separated **by a wall,** while it refers to the toilets separated **by an incomplete wall** in the cells and disciplinary cells of Penitentiary Institutions. **Therefore, it is necessary to separate the toilets of the disciplinary cells from the living area with a complete wall.**

Regarding the issue of the toilets of the cells of the "Yerevan-Kentron" penitentiary institution being separated from the living area by a half wall or a curtain, the RA Ministry of Justice noted that during the design and further construction (including reconstruction) of the whole building, as well as separate elements of it (floor covering and other) due to design features, it is currently not possible to carry out appropriate changes or reconstruction works.

In accordance with the RA Government Decree No. 1717-Ն "On Approving Penitentiary Probation Strategy of the Republic of Armenia for 2019-2023, the Programme of Measures for its Implementation for 2019-2023, the Financial Evaluation of the Programme and the Formation of the Council Coordinating the Implementation of the Programme and the Procedure of the Organization of its Activities'' of 28 November 2019 approved within the framework of the optimization of the Penitentiary institutions and improvement of the living conditions of persons deprived of their liberty in Penitentiary Institutions it is planned to move the ''Yerevan-Kentron'' penitentiary institution from the administrative building of the RA National Security Service to the former "Erebuni" penitentiary institution.

In connection with the issues discussed, the Human Rights Defender considers it necessary to note that the poor conditions of cells and quarantine departments in Penitentiary Institutions can have a negative impact on persons deprived of their liberty in adapting to the conditions of Penitentiary Institutions, especially when the person is in the Penitentiary Institution for the first time. This is crucial in terms of preventing the suicide and self-injury of persons deprived of their liberty, as well as in preventing ill-treatment.

Taking into account the abovementioned, it is necessary to:

- ✓ ***Ensure 14-day quarantine control of persons deprived of their liberty entering a***

Penitentiary Institution conditioned by the novel Coronavirus (COVID-19) pandemic.

- ✓ ***Provide proper living conditions for persons held in quarantine cells and disciplinary cells, ensure permanent water supply, natural light and ventilation;***
- ✓ ***Carry out repair and cleaning works in quarantine cells and in disciplinary cells, including their toilets;***
- ✓ ***Separate the toilets of the disciplinary cells from the living area with a complete wall and furnish them with doors***.

4.7. Provision of proper nutrition

Proper nutrition is of utmost importance for the protection of health of person deprived of their liberty.

It should be noted that in 2020, the process of delegating the food security function to persons deprived of their liberty to a private organization continued in a phased manner.

According to the information provided by the Ministry of Justice of the Republic of Armenia, starting from 1 June 2020, the process of providing food to persons deprived of their liberty in all Penitentiary Institutions is carried out by a private company.

According to the Ministry of Justice, the procurement procedures were carried out through an e-procurement system, with the participation of one participant, Ready-Steady LLC, representing the ''Art Lunch'' brand, which was recognized as the winner of the procurement procedures. Two ready-to-eat food service contracts were signed with the latter.

The Ministry of Justice of the Republic of Armenia informed that in 2020 the number of beneficiaries who used ready-to-eat food was 100%, which in itself led to a decrease in the number of the transferred parcels. According to the Ministry of Justice, the cases of refusal of food among persons deprived of their liberty are mainly related to the fact that they received food as a parcel.

During the monitoring visit to the ''Armavir'' penitentiary institution, it was registered that the food was prepared in the kitchen of the penitentiary institution by the cooks of a private company. In contrast to the abovementioned, in the "Yerevan-Kentron" penitentiary institution, ready-to-eat food is brought and distributed to persons deprived of their liberty in disposable plastic containers.

The food samples of the previous day of the visits were preserved in the studied Penitentiary Institutions.

During the private interviews with the representatives of the Human Rights Defender in the ‘’Armavir’’ penitentiary institution the employees of the private company mentioned that in the framework of the prevention of the novel Coronavirus (COVID-19) pandemic, their temperature was measured three times a day in the Penitentiary Institution. Kitchen cleaning and disinfection is done every day after the end of the working day (at 19:00), and kitchen utensils, containers, and pans are disinfected before each use.

According to the information received, the cleaning and disinfection of the kitchen of the ‘’Armavir’’ penitentiary institution is carried out by the employees of a private company, and the control over them is carried out by the administration of the Penitentiary institution. According to the explanations provided by the Ministry of Justice of the Republic of Armenia in connection with the mentioned issue, from the perspective of preventing the spread of the novel Coronavirus (COVID-19), the control over the staff engaged in processing, preparation and provision of food supplied in Penitentiary Institutions is carried out by the penitentiary staff and the food supply organization.

During the visit, the employees of a private company working in the kitchen, wore protective masks and gloves, which, according to the information provided, are changed three times a day. Masks and gloves for the mentioned persons are provided by a private company.

Although there were no disinfectants at the entrance to the kitchen of the ‘’Armavir’’ penitentiary institution at the time of the visit, there were both "disinfectants" and closed recycle bins in the kitchen. The mentioned issue was discussed with the administration of the Penitentiary Institution, which expressed readiness to regulate it immediately.

During the monitoring visits, it was noted that the distribution of the food in the "Yerevan-Kentron" penitentiary institution to the persons deprived of their liberty is carried out by the employees of the economic sector of the institution and in the "Armavir" penitentiary institution by persons deprived of their liberty involved in the work of the technical and economic service sector. During the private interviews with the representatives of the Human Rights Defender, persons deprived of their liberty involved in the work of the technical and economic service sector. stated that their temperature was measured once a day, from 08:00 to 09:00 in the morning.

According to the information provided during the visit, there is almost no food left in the "Yerevan-Kentron" penitentiary institution during the day, as the food is brought according to the demand of a specific day. During the day the penitentiary officers determine the number of persons deprived of their liberty who wish to use the food brought to the penitentiary institution the next day and an appropriate amount of food is brought to the institution.

Problems related to spilled food were stated in the ‘’Armavir’’ penitentiary institution. According to the information received, an average of 30 kg-40 kg of food is spilled daily from the food prepared in the Penitentiary Institution, while according to the contract signed between the Penitentiary Service and ‘’Ready-Steady’’ LLC, the number of whose who eat, whose who is ill and those going to the court

hearings of the Penitentiary Institution is provided to the private company by the administration of the Penitentiary Institution, during the day before the preparation of food, until 17:00..

It should be noted that according to the abovementioned Annex, the daily amount spent on food prepared in a penitentiary institution for one person is 1550 AMD.

In this regard, it is necessary to organize the work of clarifying the frames of the persons eating in the Penitentiary Institution in such a way as to minimize the amount of food spilled.

During the private interviews, the persons deprived of their liberty informed that after delegating the food service to a private company, the quality and quantity of food provided, as well as the variety of dishes, were significantly improved.

In connection with the abovementioned, the Ministry of Justice noted that by delegating the function of providing food to persons held in Penitentiary Institutions to a private organization, it was possible to significantly increase the quality of services provided by the State, bringing them in line with international standards and take another step towards eliminating discrimination with regard to persons deprived of their liberty..

During the monitoring visits to the Penitentiary Institutions, the menus examined included only the names of the foods, their total weight and calories, not including the ingredients of each food, the individual weight of the products used for cooking. **Therefore, by examining the provided documents, it is not possible to carry out full control over the food provided to persons deprived of their liberty. with respect to the observance of the minimum daily portions defined by Annex 1 to the RA Government Decree No. 1182-Ն of 10 October 2015[142].**

It is noteworthy that during the conversations between the Penitentiary Officers and the Human Rights Defender representatives and The Ministry of Justice in its official clarifications did not provide information on the compilation of "Menu, accessible to one person, daily portion of food to be poured into the pot" approved by Annex 1 to the Order No. 251-Ն of 9 June 2015.[143].

Thus, the question arises how the Penitentiary Institutions control the portions of food supplied to persons deprived of their liberty by a private organization, defined by the RA legislation.

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[142] RA Government Decree No 1182-Ն ‘’On Defining the Minimum Daily Portions of food for Persons Kept in Penitentiary Institutions of the Ministry of Justice of the Republic of Armenia, Clothing Rationing and Their Terms of Use, Rationing of Bedding and Hygiene Items and Terms of their Operation and on Recognizing Invalid the RA Government Decree No. 413-Ն of 10 April 10 2003’’ of 15 October 2015.

[143] Order No. 251-Ն ‘’On Approving the Menu of Food Distribution for Persons Kept in Penitentiary Institutions of the Ministry of Justice of the Republic of Armenia, the List of Food to be Taken out of the Food Warehouse, the Order and Form of Quantity and Quality Control and on Recognizing Invalid the Order No. PI-60-Ն of the Minister of the Justice of RA of 17 December 2007’’ of The Minister of Justice of the Republic of Armenia of 9 June 2015.

In their reports, the Human Rights Defender has raised the issue of the need to provide special diets for the sick, juveniles and small children deprived of their liberty for years.

In this regard, it should be noted that the RA Government Decree No. 1182-Ն of 15 October 2015 on the definition of the portions of food provided to persons deprived of liberty held in Penitentiary Institutions was subject to certain changes on the 18th of May, 2017. Paragraph 1 (4) of the abovementioned Decree on special diets stipulates *that based on the consultation or consultation given by a doctor, pregnant, breast-feeding mothers (or) sick detained and convicted persons kept in the Penitentiary Institutions of the RA Ministry of Justice are provided with the relevant dishes made from the products provided in the Annex 1 of the same Decree.*

In connection with the abovementioned, the Ministry of Justice of the Republic of Armenia has provided information that the most common diets developed to increase the productivity of the treatment of the diseases including cardiovascular, gastrointestinal, diabetes mellitus, chronic hepatitis, liver cirrhosis, which are widely spread among persons deprived of their liberty in recent years, have been included in in the menus of the persons deprived of their liberty, which is welcome.

According to the RA Ministry of Justice, as a result of including diets in the menus of deprived persons, 66 persons eat with such dietary schemes.

During a visit to the ‘’Armavir’’ penitentiary institution, Human Rights Defender's representatives reported that food was being provided to detainees being taken to court. In connection with this issue, the RA Ministry of Justice noted that during the transfer to the court, the detained or convicted person is provided with food in disposable containers in portions of food provided in case of transportation for more than four hours in accordance with the RA Government Decree No. 1182-Ն of 10 October 2015.

Therefore, taking into account the abovementioned, it is necessary to:

- ✓ ***Ensure the availability of disinfectants at the entrance of the kitchens operating in Penitentiary Institutions;***
- ✓ ***Take measures to more precisely organize the work aimed at clarifying the circle of persons fed in Penitentiary Institutions, minimizing the amount of food spilled;***
- ✓ ***Exercise control over the observance of the minimum daily portions defined by Annex 1 to the RA Government Decree No. 1182-Ն of 10 October 2015, provided to persons deprived of liberty.***

4.8. Bathing and washing

During the monitoring visits carried out in 2020, the bathrooms and laundries of the Penitentiary Institutions, the conditions for organizing bathing and washing were also examined. As a result of the studies, problems related to the provision of bathing for persons deprived of their liberty were stated.

During the visit to the‘’Yerevan-Kentron’’ penitentiary institution, it was registered that the bathroom is located in the basement of the institution. The bathroom was in inappropriate and unacceptable sanitary condition. In particular, the walls of the bathroom were wet, the plaster was spilled, the tiles of the walls and some parts of the floor were destroyed, the walls were covered with mold cobwebs, there was a need for renovation and cleaning.

At the same time, it should be noted that the installment and furnishing of the bathroom of the Penitentiary Institution makes it almost impossible to use it for persons deprived of their liberty with mobility problems. Problems with the organization of bathing and accessibility of bathrooms and toilets of the cells for persons deprived of their liberty with mobility problems, were found in 2016, 2017, 2018 and 2019[144].

During the private interviews, persons deprived of their liberty told Human Rights Defender representatives that bathing is usually held once a week, and twice a week during the summer months. This was confirmed by the penitentiary officers.

Allowing persons deprived of their liberty to take a bath twice a week during the summer months is certainly welcome, but it is desirable that the practice be applied throughout the year.

In connection with the organization of bathing for persons deprived of their liberty, paragraph 36 of the Annex to the RA Government Decree No. 1543-Ն of 3 August 2006 stipulates *that every detained or convicted person must take a bath or shower at the appropriate temperature, at least once a week. and, if possible, more often if necessary for general hygiene.*

In this regard, the CPT, during its visits to Armenia as well as to a number of other countries, has repeatedly called on the authorities to increase the frequency of bathing for persons deprived of their liberty in accordance with Rule 19.4 of the European Prison Rules. According to this rule, *adequate opportunities should be created for every person deprived of his of her liberty to be able to take a shower*

[144] See the Annual reports on the activities of the RA Human Rights Defender as the National Preventive Mechanism of 2016, 2017 2018 and 2019 https://www.ombuds.am/images/files/ef5f900e0dc568da83fe60b18c608e2e.pdf , https://www.ombuds.am/images/files/7f468a417e011c000153bd1bf64a05e0.pdf , https://www.ombuds.am/images/files/dcc37ac516d1268bb59999f72c76d982.pdf . https://www.ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpages, as of 31.03.2021, pages. 22-23, 62, 215-216 and 239-244.

or bath at the appropriate temperature, moreover, every day if possible, but at least twice a week (and more often if necessary) for the purpose of keeping general hygiene. [145].

According to the CPT's 2016 report on Armenia, ***the opportunity for bathing should be given at least twice a week***[146].

Regarding the renovation works, the RA Ministry of Justice noted that in 11 cells of the "Nubarashen" penitentiary institution renovation works of 1 communal bathroom and toilets have been carried out, restoration of damaged pipes of internal water supply and drainage network, in the "Abovyan" penitentiary institution the bathroom of the block of the women's isolator was repaired. And T=the issue of unacceptable conditions of the latter was raised in 2018[147].

According to the Ministry of Justice, 3 cells with the conditions of closed correctional institutions are adapted for persons with mobility problems in the ''Nubarashen'' penitentiary institution, and 5 toilets of the hospital building are provided with the opportunity to take a shower. In the "Hospital for the Convicted" penitentiary institution, there are 2 toilets and 2 bathrooms adapted for persons with mobility problems in psychiatric and therapeutic departments, 1 toilet and bathroom in the general bathroom of the surgical department.

This is certainly welcome, but steps need to be taken to make Penitentiary Institutions (including bathrooms, toilets of cells, staircases) accessible to persons deprived of their liberty as soon as possible.

During the monitoring visits, the issues of organization of washing in Penitentiary Institutions were also studied.

Thus, there were 5 washing machines in the laundry of the ''Armavir'' penitentiary institution. During the visit, it was reported that the washing activities were carried out by a person deprived of his liberty involved in the technical and economic services of the Penitentiary Institution. It was also noted that the washing and distribution of items to persons deprived of their liberty are carried out entirely by the same person.

According to the information received, since the declaration of the state of emergency in the Republic of Armenia, the number of items handed over to the laundry of the Penitentiary Institution by persons

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[145] See: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016809ee581 webpage, as of 31.03.2021.

[146] See; https://rm.coe.int/16806bf46f webpage, as of 31.03.2021, paragraph 73.

[147] See, in more detail: the AD hoc public report "On Ensuring the Rights of Women and Juveniles Deprived of Liberty in the Penitentiary System" at https://www.ombuds.am/images/files/a18fe372eb128c32e7b10c30c44030d6.pdf webpage, as of 31.03.2021, pages 38-42.

deprived of liberty has decreased. The latter prefer to do the laundry in their cells or send it to relatives, which was proved during private interviews with persons deprived of their liberty.

During the private interviews, it became known that the items of washing in the ‘’Armavir’’ penitentiary institution is collected throughout the week and is carried out on Saturdays and Sundays. According to them, due to the spread of the novel Coronavirus (COVID-19), the number of disinfectants provided in the laundry has increased.

There was one washing machine in the basement of the ‘’Yerevan-Kentron’’ penitentiary, which, according to the administration, was insufficient to properly organize the washing (clothes and linen) of all persons deprived of their liberty in the institution (23 persons were kept during the visit).

During the private interviews with the persons deprived of their liberty, it turned out that the latter mostly send their clothes to relatives to do the washing.

Based on the abovementioned, it is necessary to:

- ✓ ***Carry out cleaning and renovation works in the bathrooms of penitentiary institutions, ensuring proper conditions for persons deprived of their liberty to take a bath;***
- ✓ ***Due to the need to maintain the general hygiene of persons deprived of their liberty, make an amendment to the RA Government Decree No. 1543-Ն of 3 August 2006, providing for the possibility of bathing at least twice a week for persons deprived of their liberty;***
- ✓ ***Provide an adapted environment for persons with mobility problems in Penitentiary Institutions (bathrooms, toilets of cells);***
- ✓ ***Ensure proper and adequate conditions for the organization of washing for persons deprived of their liberty in Penitentiary Institutions.***

4.9. Ensuring the right to leisure, including outdoor exercise and sports

During the monitoring of Penitentiary Institutions in 2020, problems continued to be revealed in connection with the rights of leisure of persons deprived of their liberty, including outdoor exercise and sports

Thus, in the ‘’Yerevan-Kentron’’ penitentiary institution, for the organization of outdoor exercise, the cells for outdoor exercises are located on the roof of the building. The transfer of persons deprived of their liberty from the Penitentiary Institution to the cells for outdoor exercises is carried out by an elevator, and the outdoor exercise is organized according to the cells.

During the visit, it was stated that all the cells for outdoor exercises of the Penitentiary Institution were equipped with benches, trash cans, shelters to protect themselves from bad weather conditions, and gymnastic rods. The cells for outdoor exercise were in good sanitary condition.

The shelters from bad weather conditions were placed in the corner of the cells for outdoor exercise, they were quite small, they did not cover the benches fixed in the central part of the cells. Gymnastic rods were found under the covers in the cells for outdoor exercise.

This way of placement of benches and shelters does not allow persons deprived of their liberty to sit and be protected under the shelter at the same time, which is a reason for not exercising their right to outdoor exercise.

In the ''Yerevan-Kentron'' penitentiary institution, two sports bicycles were placed in the corridor leading from the elevator to the cells for outdoor exercise, one of which was not functioning. According to the information provided by the penitentiary officers, persons deprived of their liberty sometimes express a desire to use sports bicycles; they are transported to the appropriate cell for outdoor exercise.

In response to the Human Rights Defender's inquiry on the measures taken to improve the conditions of the outdoor exercise yards, the RA Ministry of Justice noted that by 2020, a semi-open correctional institution with up to 200 inmate capacity in the ''Armavir'' penitentiary institution Appropriate construction works have been carried out in order to create the necessary living conditions. As a result of the work done, proper conditions were provided for about 190 persons deprived of liberty in the 2nd sector of the Penitentiary Institution. A separate large dining room was built and furnished, a dining hall, a promenade square, a ramp, a chat room, benches were placed, as well as the landscape gardening of the area. The Ministry of Justice also informed that the outdoor exercise yards of the closed, semi-closed correctional institutions of the Penitentiary Institutions are provided with benches and covers with the necessary surface to shelter from unfavorable weather conditions.

The possibility of allowing persons deprived of their liberty to outdoor exercise was addressed in the European Prison Rules. Rules 27.3 and 27.4 of the abovementioned document stipulate t*hat appropriate measures to increase the level of physical training, provision of opportunities of training and leisure should be part of the regime of a place of deprivation of liberty, and the management of the place of deprivation of liberty should promote it by providing devices and equipment.*

According to Rule 23 of the Mandela Rules, *all persons deprived of their liberty who are not engaged in outdoor activities have the right to engage in outdoor gymnastics for at least one hour daily.*

Part 2 of the same rule states *that juveniles, as well as persons deprived of their liberty of other age groups, who are in good physical condition, should be provided with the opportunity to exercise and play games. For that you need to have the necessary squares, equipment and property.*

The law discussed has been clearly enshrined in domestic law. Thus, according to paragraph 10 of Part 1 of the Article 12 of the RA Penitentiary Code, *a convicted person has the right to: (...) leisure, including an eight-hour night's sleep, outdoor exercise or gymnastics.*

According to paragraph 87 of the Annex to the RA Government Decree No 1543-N of 3 August 2006, *the places of outdoor exercises for juvenile detained or convicted persons in the detention place or correctional institution must be adapted for physical exercises, various games and sports.*

The same provision is included in Article 13 of the RA Law ''On Detention of Arrestees and Detainees''.

According to paragraph 2 of Article 27 of the RA Law ''On Detention of Arrestees and Detainees'', *arrested or detained women and juveniles enjoy the right to walk for at least two hours daily, during which they have the opportunity to do gymnastics.*

Part 4 of Article 56 of the RA Penitentiary Code stipulates that (…) *a juvenile convicted person enjoys the right to a daily outdoor exercise of at least two hours.*

As already mentioned, juveniles arrested or detained also have the right to outdoor exercise/walk for at least two hours a day.

Thus, the daily life of persons deprived of their liberty should include gymnastics, sports, and entertainment programmes. In this regard, the State should take measures to ensure the abovementioned measures.

As mentioned in the Human Rights Defender's Annual reports on the activities of the National Preventive Mechanism in previous years, there is a problem in distinguishing between the length of walks provided to arrested and detained women and female convicted persons. Thus, if arrested or detained women enjoy the right to walk for at least 2 hours daily, such a right is not provided for female convicted persons.

Despite the fact that this issue has been raised for years, no steps have been taken to correct the deviation from the abovementioned general logic in the legislation.

In most Penitentiary Institutions, there is still no access for long-term visitors, including long walks of juveniles, which is conditioned by th absence of of separate outdoor exercise yards

In response to the Human Rights Defender's annual inquiry into the matter, the Ministry of Justice of the Republic of Armenia provided information that only the sectors for long visits of the ''Armavir'' and ''Kosh'' penitentiary institutions had separate promenade squares (outdoor exercise yards), In case of will of the persons deprived of liberty to walk is provided in the promenade square of cell for outdoor exercise or promenade of the other Penitentiary Institutions during a long visit. According to the Ministry of Justice, the outdoor exercises yards of the long visits are provided with shelters to be protected from bad weather conditions in the "Armavir" and "Kosh" penitentiary institutions, and at the

same time, a rink and a merry-go-round is placed for the children who come to visit in "Kosh" penitentiary institution.

In view of the abovementioned, it is necessary to:

- ✓ ***Provide the cells of outdoor exercise (outdoor exercise yards) of the Penitentiary Institutions with shelters of appropriate size to be protected from bad weather conditions;***
- ✓ ***Place the benches of the cells of outdoor exercise (outdoor exercise yards) under the covers, ensuring that the persons deprived of their liberty can sit; and at the same time take shelter under the roof;***
- ✓ ***Carry out renovation and regular cleaning works of the cells for outdoor exercise (outdoor exercise yards) in order to ensure proper outdoor exercises for persons deprived of their liberty;***
- ✓ ***Equip the cells for outdoor exercise (outdoor exercise yards)with new gym equipment, ensuring the proper exercise of the right of persons deprived of their liberty to do gymnastics;***
- ✓ ***Ensure a unified legislative approach to the issue of women's walking length, which will enable women, regardless of status, to enjoy the right to walk for at least two hours daily;***
- ✓ ***Ensure the right to outdoor exercise during long visits by providing adapted and separate outdoor exercise yards .***

4.10. Contact with the outside world

Due to the novel Coronavirus (COVID-19) pandemic, domestic regulations have had a significant impact on the relationship of persons deprived of their liberty with the outside world. For persons deprived of their liberty, the loss of the opportunity to communicate with relatives and the outside world can cause great distress and suffering, which can have dire consequences for their mental health, law-abiding behaviour, and subsequent reintegration into society.

In 2020, concerns of persons deprived of their liberty about maintaining contact with the outside world were mainly related to their right to visit Penitentiary Institutions under the conditions of the novel Coronavirus (COVID-19) pandemic. As a result of the studies, the problems were revealed with replacing the visits with video calls, as well as with the organization of video calls.

The Human Rights Defender's Office has received both written complaints and numerous alerts regarding the ban on visits due to the novel Coronavirus (COVID-19) pandemic in Penitentiary

Institutions. Thus, according to one of the applications, due to the existing restrictions, the person imprisoned during the 8 months of 2020 had the opportunity to have only one long and 2 short visits.

In another case, the citizen stated that they and their child had the opportunity to see their sentenced husband only in September 2020, due to restrictions due to the novel Coronavirus (COVID-19) pandemic.

It should be noted that based on the complaints received, the Human Rights Defender addressed a letter to the RA Ministry of Justice regarding the ban on visits to Penitentiary Institutions in the conditions of the novel Coronavirus (COVID-19) pandemic, raising the need for persons deprived of their liberty to maintain contact with the outside world and their families. , the issues of their re-socialization and not losing social ties.

In response to the Human Rights Defender's letter, the Ministry of Justice of the Republic of Armenia stated that it had taken the initiative to lift the general ban on visits to persons deprived of their liberty, as defined by the RA Government Decree No. 1514-Ն of 11 September 2020.

Later, by the RA Government Decree No. 204-Ն of 18 February 2021, paragraph 15 of the Annex to the RA Government Decree No. 1514-Ն of 11 September 2020 was recognized invalid, that is, *visits to Penitentiary Institutions are prohibited* (...). The abovementioned Decree entered into force on the 20th of February, 2021. However, the Human Rights Defender notes that in 2020, due to restrictions imposed by the novel Coronavirus (COVID-19) pandemic, persons deprived of their liberty were not properly communicated with the outside world.

International domestic standards state that restrictions on the right to liberty should not lead to losing access to the outside world for the persons deprived of their liberty. Moreover the administration of the Penitentiary Institution should take steps to facilitate the contact of the persons deprived of their liberty with their family members and the outside world.

Paragraph 9 of part 1 of the Article 12 of the RA Penitentiary Code *stipulates that a convicted person has the right to communicate with the outside world, including correspondence, visits, use of telephone communication, literature and possible media.*

Pursuant to Article 92 1 1 of the Code, *the administration of a correctional institution shall create appropriate conditions for a convicted person to have contact with the family and the outside world. For this purpose, short-term and long-term visiting rooms, possible means of communication, and possible conditions for using the media are created in the correctional institution.* The same provision is enshrined in Article 17 of the RA Law ‘’On Detention of Arrestees and Detainees’’.

The issues of the right of persons deprived of their liberty to visit in the conditions of the novel Coronavirus (COVID-19) pandemic, have been discussed in the staff of the Human Rights Defender

from the point of view of ensuring the continuity of visits to persons deprived of liberty, possibilities of its implementation by alternative means, as well as safe organization of visits. In this regard, the issue of guaranteeing the right to visit persons deprived of their liberty in the conditions of the pandemic should be considered by combining legislative restrictions and their validity, providing outreach to the outside world, monitoring visits, problems identified, as well as other countries' legislation and structures and international standards in pandemic conditions

Thus, according to the paragraph 11 of the Annex to the RA Government No. 298-Ն "On Declaring a State of Emergency in the Republic of Armenia" of 16 March 2020, *the following are prohibited in the places of detention and in Penitentiary Institutions:*

1) *Receiving and sending of parcels and packages;*
2) *Having visits (except for the cases of using video calling);*
3) *Organization of religious rituals and participation in them.*

Thereafter, in accordance with the amendments made to the abovementioned Decree on the 14th of May and 23rd of June, *it is permitted to receive or send a parcel and/or package once a week, and only one person can enter the place where the arrestees are kept oor Penitentiary Institution to send a parcel, or package or to receive a parcel or package from them, as well once a month to have three-hour short visit of video call.*

Then, according to paragraph 1 of the RA Government Decree No. 1514-Ն "On Establishing Quarantine due to the Novel Coronavirus (COVID-19) Pandemic'' of 11 September 2020, quarantine was established in the Republic of Armenia, as a result of which, according to paragraph 15 of the Annex to the same Decree, *visits to Penitentiary Institutions are prohibited.* The quarantine established by the amendment made on the 11th of January, 2021 in the mentioned Decree has been extended until 11 July 2021. In this regard, the scope of the actual opportunities for persons deprived of their liberty to exercise their right to maintain contact with the outside world is of great concern, as visits have been prohibited since 2020 (except for some short periods).

Although the ban on visits is due to the need to prevent the spread of the novel Coronavirus (COVID-19) in Penitentiary Institutions, nevertheless, Penitentiary Institutions and persons deprived of their liberty cannot be completely isolated. Staff as well as other authorities with access to enter the Penitentiary Institution can enter it ,who may also be potentially infected. Therefore, visits to relatives are not the only possible source of the novel Coronavirus (COVID-19). In this regard, it is extremely important to follow safety rules to prevent the spread of the novel Coronavirus (COVID-19).

In view of the abovementioned, it is necessary to take steps to ensure the proper exercise of the right of persons deprived of their liberty to maintain contact with the outside world, by developing opportunities for the use of mechanisms to maintain contact with the outside world and their alternatives in the conditions of the novel Coronavirus (COVID-19) pandemic.

In addition to the restrictive measures, the COVID-19 Response Guideline[148] addresses a number of measures taken by States to ensure the right of persons deprived of their liberty to visit and ensure their safety. These include, for example, assessing the health of visitors by measuring temperature, completing a questionnaire to exclude symptoms, presenting a travel history to all visitors, wearing medical masks, preferring separate visits, and treating visitors' hands with a disinfectant to be supervised by penitentiary officers. Arranging visits in different parts to avoid crowds, frequent cleaning and disinfection of visiting rooms and private rooms, informing the visitors about the need not to visit the Penitentiary Institution in case of being sick.

At the same time, the guide emphasizes the need to expand secure communication (more opportunities to call family members, long telephone conversations, video calls, video communication, etc.).

As a result of monitoring visits and studies conducted in 2020, it was found that in such conditions the alternatives to and visits were extremely limited.

In particular, despite the amendment on allowing short visits once a month (entered into force on the 25th of July, 2020) made in Annex 11 (2) of the Decree No. 1225-Ն "On Making Amendments to the RA Government Decree No. 298-Ն of 16 March 2020". During the visit to "Armavir" penitentiary institution on July 27, 2020, short visits were not allowed in the institution. Both the administration of the Penitentiary Institution and the persons deprived of liberty were unaware of the mentioned amendment.

Persons deprived of their liberty under the ban on visits enjoyed the rights of video and telephone calls.

During the monitoring, according to the information provided by the Department of Social, Psychological and Legal Affairs (hereinafter referred to as DSPL) of the ‘’Armavir’’ penitentiary institution, the management of the Penitentiary Institution increased the number of video calls to fill the gap.

Despite the abovementioned, private interviews with persons deprived of their liberty have shown that some persons are still unaware of the possibility of video calling. According to persons deprived of their liberty, the opportunity to make video calls is mainly used by foreigners. According to the records in the

[148] The core guideline for the ‘’A Response to COVID-19’’ for the decision-makers in relation with global practice recommendation presents the measures taken by most penitentiary administrations around the world, as well as nationally adopted strategies and and compliance with the recommendations between world-renowned international organizations such as the World Health Organization (WHO). the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). The guideline aims to assist decision-makers in the field of criminal justice in making (substantiating) decisions to mitigate the risks of COVID-19 in correctional institutions. See the guide: at https://rm.coe.int/covid19-ips-basic-guide-for-decision-makers-on-worldwide-practices-and/16809e1c33 webpage, as of 31.03.2021.

video call register, 105 video calls were made between 27 July 2020, after the state of emergency entered into force, of which 76 (about 72% of the total video calls) were made by imprisoned foreigners.

In its statement on the principles of treatment of persons deprived of their liberty under the novel Coronavirus (COVID-19) pandemic of 20 March 2020, the CPT stressed *that the* ***restrictions directly imposed on persons deprived of their liberty in order to prevent the pandemic must have a legal basis****,* ***be necessary and proportionate. respectful towards human dignity and limited in terms.***

The statement said that *any restrictions on contact with the outside world, including visits, should be accompanied* ***by an increase in the accessibility of alternative means of communication***[149]***.***

Commissioner for Human Rights also expressed their position on the issue, noting that *when, for example, there is a need to restrict access to family members or other means of communication with the outside world, these restrictions must be mitigated through alternative mechanisms, such as telephone or video, the wider possibilities of communication through*[150].

During the visit to the ‘’Yerevan-Kentron’’ penitentiary institution, in the absence of re-socialization programmes, with very limited contact with the outside world, including the ban on visits, persons deprived of their liberty told Human Rights Defender representatives that they would like to use the video call more often.

In this regard, it should be noted that the restriction of access to video calling is conditioned by the regulation provided for in paragraph 185.1 of the Annex to the RA Government Decree No. 1543-Ն of 3 August 2006, *according to which foreign detained or convicted persons whose close relatives cannot visit, as well as detained or convicted persons whose close relatives cannot have a short visit,* ***are given the opportunity to use a video call of up to 20 minutes twice a month.***

According to the abovementioned regulation, persons deprived of their liberty have the opportunity to use video calls instead of actually short-term visits. It turns out that at least once a month, up to 4 hours a day, physical visits are replaced with up to 20 minutes (40 minutes in total) online video call twice a month, **which, especially under the conditions of quarantine, is extremely insufficient for the ensuring the right of communication with the outside world.**

The importance of maintaining contact with the outside world for the persons deprived of their liberty has been repeatedly raised by the Human Rights Defender. Contact with relatives has a positive effect on the latter, which is essential in terms of re-socialization of persons deprived of their liberty and not

[149] See: https://rm.coe.int/16809cfa4b webpage, as of 31.03.2021.

[150] See: Human Rights Commissioner's Statement of 6 April 2020 on Necessary Steps to Protect the Rights of Persons Imprisoned in Europe under the novel Coronavirus (COVID-19) pandemic at https://www.coe.int/en/web/commissioner/-/covid-19-pandemic-urgent-steps-are-needed-to-protect-the-rights-of-prisoners-in-europe webpage, as of 31.03.2021.

losing social ties. **Therefore, it is necessary to make a corresponding amendment in paragraph 185.1 of the Annex to the RA Government Decree No. 1543-Ն of 3 August 2006, envisaging a reasonable frequency and duration of using the possibility of video call.**

According to Rule 24.1 of the European Prison Rules, *persons deprived of their liberty should be allowed to communicate, visit their family members, other persons and organizations as often as possible by letter, telephone or other means of communication*[151].

The issue of the use of video calls in the context of the pandemic was also addressed by the European Prison and Correctional Organization's third review[152] of the European Prison Services Response to the COVID-19 crisis of 24 July 2020. In particular, it was noted that *the use of video calling in the conditions of the novel Coronavirus (COVID-19) pandemic has been successful, especially among parents deprived of their librty and their children. A number of prison services have expressed their willingness to ensure the continued use of video calling, not as a substitute for visits, but as an additional opportunity.* The European Organization of Prison and Correctional Institution has highlighted the benefits of video calling in that it provides access to the whole family, as there is no limit to the number of visitors to a video call, unlike physical visits.

The Ministry of Justice of the Republic of Armenia, in its official clarifications on the practical steps taken to strengthen the contact with the outside world in Penitentiary Institutions, noted that the short visits of persons deprived of their liberty due to the ban on visits were replaced by video calls. According to the Ministry of Justice, in order to make the connection with the outside world more effective, persons deprived of their liberty have the opportunity to have one additional video call for up to 10 minutes.

The RA Ministry of Justice also stated that all Penitentiary Institutions are provided with computers equipped with the capacity to make video calls (4 computers in the ‘’Armavir’’ penitentiary institution, 2 computers in "Nubarashen" penitentiary, 1 computer in other Penitentiary Institutions).

Below is the number of video calls made by persons deprived of their liberty in 2020, by Penitentiary Institutions.

Penitentiary Institution	**Number of Video Calls:**

[151] See: the European Prison Rules of the Committee of Ministers of the Council of Europe, revised on 01.07.2020 at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016809ee581 webpage, as of 31.03.2021.

[152] See: the European Prison and Rehabilitation Agency's European Review of the COVID-19 Crisis Response for 24 July 2020 at https://www.europris.org/wp-content/uploads/2020/08/202007_Europris_Overview-COVID-Commissioner-Reynders-update-July.pdf webpage as of 31, 03.2021.

‘’Abovyan’’	749
‘’Vardashen’’	347
‘’Yerevan-Kentron’’	311
‘’Goris’’	245
‘’Armavir’’	210
‘’Artik’’	137
‘’Nubarashen’’	137
‘’Vanadzor’’	95
‘’Hrazdan’’	92
"Hospital for the Convicted"	88
‘’Sevan’’	80
‘’Kosh’’	79
TOTAL	***2570***

It should be noted that 85% (2184) of the total number of video calls made in Penitentiary Institutions were made during the state of emergency declared in the Republic of Armenia, and then during the quarantine.

There were no problems with video calls during the 2020 visits, but there were issues with their organization and privacy.

Thus, during the visit to "Yerevan-Kentron" penitentiary institution, as a result of the conversations with the persons deprived of their liberty, as well as with the penitentiary officers, it turned out that the video calls were made from the library of the institution in the presence of a representative of the administration, and though they do not look at the screen, but listens to a conversation of a person deprived of liberty. In this regard, it should be noted that according to paragraph 185.2 of the Annex to the RA Government Decree No. 1543-Ն of 3 August 2006, t*he video call may take place in the presence of a representative of the administration, as well as by the reasoned decision of the penitentiary administration for security reasons. informing a detained or a convicted person in advance.*

However, the administration of the penitentiary institution did not provide any information on the reasoned decisions regarding the presence of penitentiary officers during the video calls.

Unlike ‘’Yerevan-Kentron’’ penitentiary institution, "Armavir" penitentiary institution had 2 rooms for video calls, one of which was located in one of the rooms with a glass partition for short visits, and the other in the 4th sector of the institution, where they are mainly kept foreigners deprived of liberty. The door of the room with a glass partition has a glass window, through which the penitentiary officers carry out visual control over the persons deprived of their liberty.

Telephone communication is another way for persons deprived of their liberty to communicate with the outside world.

During the monitoring, the taxophones installed in the Penitentiary Institutions, their equipment, as well as the possibility to call the 116 hotline number of the Human Rights Defender and the availability of relevant instructions were examined.

Thus, at the time of the visit, the taxophone placed in the disciplinary cell of the ‘’Armavir’’ penitentiary institution did not work. The mentioned issue was raised during the private interviews with the representatives of the Human Rights Defender by persons on hunger strike, noting that they had to use the quarantine department to connect with their relatives and lawyers by phone.

The Ministry of Justice of the Republic of Armenia stated in the clarifications on the problems found in the "Armavir" penitentiary institution that the malfunction of the taxophone placed in the disciplinary cell block of the institution was eliminated.

No technical problems related to taxophones were found in the ‘’Yerevan-Kentron’’ penitentiary institution, and the Human Rights Defender's 116 hotline number was put near them. However, it should be noted that the guideline for calling the Human Rights Defender's hotline number wasn’t put at the taxophones, in particular, there was no information leaflet on the fact that in order to make a call, you need to press the "#" (number sign) button before making a 116-digit call. The administration of the penitentiary institution has expressed readiness to put a relevant guide.

Taking into account the constitutional right of every person to apply to the Human Rights Defender, it is necessary to provide the Human Rights Defender's 116 hotline number and a guideline to call it.

During their conversations with Human Rights Defender's representatives, the persons deprived of their liberty expressed their concern and dissatisfaction with the disproportionately high telephone fee per minute provided by cards in Penitentiary Institutions.

In connection with the abovementioned, the Ministry of Justice has provided information that telephone exchanges (telephones, taxophones) of "Veon Armenia" and "Cross Net" companies are placed in all

Penitentiary Institutions. According to the Ministry, as a result of negotiations with the Public Services Regulatory Commission, ‘’Veon Armenia’’ has reconsidered the possibility of making the calls from card phones to public mobile networks more affordable to persons deprived of their liberty in Penitentiary Institutions.

The Ministry noted that since the calls from the taxaphones are made through special cards with different values of certain time for speaking, due to technical and software solutions, the company could not change the amount of minutes included in them, so the company decided to reduce the selling price of these cards by 50%. Leaving the minutes included in them (the cost of 1 minute of an actual call to mobile networks is 32 AMD, to all Beeline landline numbers - free of charge). It is possible to call the RA mobile networks at 19 AMD / minute, and the RA landline numbers at 5 AMD / minute through the taxophones of "Cross Net" company of Penitentiary Institutions.

Steps taken to make telephone communication more affordable in Penitentiary Institutions are welcome.

Regarding the existence of separate telephone booths for persons deprived of their liberty in Penitentiary Institutions, the RA Ministry of Justice noted that they are placed only in the ‘’Kosh’’ Penitentiary Institution (2 booths), and the taxophones placed in other institutions are not separated or isolated, due to the peculiarities of buildings it is not possible to provide additional space for the placement of telephone booths.

It should be noted that the problem has not been solved for a long time, and it is necessary to take effective measures to ensure the confidentiality of telephone conversations of persons deprived of their liberty.

During the monitoring visits, rooms for short-term and long-term visits to Penitentiary Institutions, as well as investigative activities and rooms for meetings with lawyers have been studied.

In the rooms for short-term and long-term visits of the "Armavir" penitentiary institution there was a need for renovation and cleaning works, in particular, in the corridor in the room for short-term visit, there were cigarette butts and fruit stones. The general use areas of the Penitentiary Institution were in poor sanitary condition. The point is that for the Penitentiary Institution with 1240 staff, only 2 positions of cleaner are provided, which cannot be considered sufficient.

The "Armavir" penitentiary institution has 11 rooms for long-term visits and one children's room. During the visit, there were cupboards, benches, a table in the children's room, as well as some worn-out and damaged toys. Right next to the door of the children's room, in a place accessible to children, there was an electrical distribution box, the valve thereof did not work and it was open. In this regard, the Ministry of Justice noted that a valve was set on the electrical distribution box in the children's room.

In one of the rooms for long-term visits there were bird nests, the furniture of the room, the floor were contaminated with bird droppings, there was a need of renovation and cleaning in the kitchens and the bathrooms of some rooms. In almost all the rooms of the long-term visit there was an unacceptable sanitary and hygienic condition, the ceiling of one of the rooms was moldy, the ceiling of the other bathroom was destroyed, etc.

In the clarifications on the problems revealed in the "Armavir" penitentiary institution, the RA Ministry of Justice informed that the contaminated room for the long-term visit of the institution, was completely cleaned, all the rooms for the long-term visit were additionally cleaned, regular sanitary-hygienic measures were provided. The toilets have undergone cosmetic renovation, and the toilet bowl of the toilet of the room for short-term visit has been replaced with a new Asian toilet bowl.

There is no room for long-term visit in ‘’Yerevan-Kentron’’ penitentiary institution. According to the information provided by the administration, long-term visits of persons deprived of their liberty are organized in the rooms for long-term visits of the "Hospital for the Convicted" penitentiary institution.

There were 2 rooms in the penitentiary institution for short visits, investigative activities and meetings with lawyers. The rooms were in good sanitary condition, were renovated, properly furnished and heated, which is welcome.

In response to the Human Rights Defender's inquiry on the provision of long-term visit rooms with separate toilets, the Ministry of Justice of the Republic of Armenia provided information that the long-term visit rooms of all Penitentiary Institutions are provided with individual toilets. The only exceptions are the ‘’Sevan’’ and "Kosh" penitentiary institutions. According to the Ministry of Justice, there are 2 toilets for the 5 visiting rooms in the old part of long-term visit block of the ‘’Sevan’’ penitentiary institution, and the 4 rooms in the newly renovated, reconstructed part are provided with private toilets. There are 2 bathrooms for 11 rooms of the long-term visit block of the "Kosh" penitentiary institution.

Taking into account the length of the visit, as well as the right to live with close relatives, rooms for long-term visits should be provided with all the necessary conditions. Therefore, it is necessary to work continuously to provide all the rooms for long-term visits to Penitentiary Institutions with private toilets.

In connection with the provision of adequately furnished waiting halls and toilets for visitors to persons deprived of their liberty, The Ministry of Justice of the Republic of Armenia stated that such waiting halls are available in the "Armavir", ‘’Sevan’’ and "Kosh" penitentiary institutions. In other Penitentiary Institutions, due to the peculiarities of the building conditions, appropriate areas are provided for visitors (in some institutions, entrances).

The Ministry noted that the issue will be resolved on a larger scale, within the framework of the optimization of penitentiary institutions envisaged by the programme of measures approved by the RA

Government Decree No. 1717-Լ "On Approving Penitentiary Probation Strategy of the Republic of Armenia for 2019-2023, the Programme of Measures for its Implementation for 2019-2023, the Financial Evaluation of the Programme and the Formation of the Council Coordinating the Implementation of the Programme and the Procedure of the Organization of its Activities'' of 28 November 2019.

Regarding the short-term and long-term visits to Penitentiary Institutions, the Ministry of Justice noted that due to restrictions on the prevention of the novel Coronavirus (COVID-19) pandemic , the process of providing short-term and long-term visits in 2020 was incomplete. According to the Ministry**, 437** long-term and **4986** short-term visits were provided to persons deprived of their liberty.

Below are the statistics of short-term and long-term visits in 2020, by Penitentiary Institutions separately.

Penitentiary Institution	**Long-term Visit**	**Short-term Visit**
''Armavir''	134	1603
''Nubarashen''	72	737
''Hrazdan''	41	385
''Vardashen''	32	442
''Vanadzor''	31	337
''Sevan''	25	211
''Artik''	23	269
''Kosh''	19	130
''Hospital for the Convicted''	17	256
''Goris''	17	156
''Abovyan''	14	324
''Yerevan-Kentron''	12	136
TOTAL	***437***	***4986***

From the presented statistical data, the number of long-term visits provided in "Abovyan" penitentiary institution is a cause for concern. The possibility of long-term visits for women and juveniles is especially important in terms of not losing contact with the family and maintaining social ties.

In 2020, the subject of study has become the restrictions on food and items received in parcels and packages in Penitentiary Institutions, as well as the presence of devices for checking the content of parcels in the areas intended for receiving parcels in institutions

In connection with the abovementioned, the Ministry of Justice of the Republic of Armenia provided information that by the RA Government Decrees No. 298-Ն of 16 March 2020 and No. 1514-Ն of 11 September 2020, only quantitative restrictions were imposed on the acceptance of parcels in Penitentiary Institutions.

It should be noted that according to the paragraph 15.1 of the Annex to the RA Government Decree No. 1514-Ն of 11 September 2020, *it is allowed to receive or send a parcel or package once a week in Penitentiary Institutions, moreover, only one person may enter the areas of a penitentiary institution to send or receive a package or parcel.*. In this regard, during the private interviews with the representatives of the National Preventive Mechanism in the ‘’Yerevan-Kentron’’ penitentiary institution, the persons deprived of their liberty stated that receiving a parcel once a week is insufficient, as they do not have the opportunity to keep the food received for the whole week and food spoils quickly.

The Ministry of Justice stated that in order to improve the technical equipment/devices for checking the parcels of Penitentiary Institutions, RA Government Decree No. 1391-Ն of 10 October 2019, in operation. Rapiscan ORION 920CX X-ray safety devices and transition metal detectors of "SECUPLUS" brand were installed in all Penitentiary Institutions in 2020 as a result of the procurement procedures organized by the financial means provided from the Reserve Fund of the Government of the Republic of Armenia

The Ministry added that in February 2020, the employees of the relevant subdivisions of the Penitentiary Institutions underwent training, getting acquainted with the peculiarities of the operation of the latest generation of technical means and the capabilities of the devices.

Thus, the mechanical transfer of parcels (food, items, subjects) transferred to persons deprived of their liberty in Penitentiary Institutions, and consequently the possibility of their damage and spoilage, has been ruled out, **which is definitely welcome.**

As a result of the discussion of the complaints addressed to the Human Rights Defender, as a result of the investigations carried out in the Penitentiary Institutions, legislative issues related to the realization of the right of persons deprived of their liberty to communicate with the outside world were found. The mentioned issues were referred to in detail in the Annual reports on the activities of the RA Human Rights Defender as the National Preventive Mechanism in the previous years.

The Human Rights Defender's Office, together with the Ministry of Justice of the Republic of Armenia, has previously drafted legislative amendments. The regulations proposed by the draft are aimed at envisaging a clear mechanism for prohibiting the detainee to meet with a close relative and with a legal representative, and ensuring compliance with international standards of national legislation.

The draft proposes in particular:

1) To prohibit the visit of detainees with close relatives as a means of judicial coercion;
2) To apply the mentioned procedural coercive measure in the pre-trial proceedings only with the reasoned motion of the investigator, by the decision of the prosecutor or on the prosecutor's own initiative;
3) To apply a measure of judicial coercion to prohibit the detainee from visiting a close relative during the trial or by a court decision;
4) To establish clear grounds for prohibiting the accused from visiting the accused during a detention;
5) To apply the mentioned measure of judicial coercion only to that close relative of the detainee, whose data are clearly mentioned in the decision;
6) To envisage the decision on the application of the mentioned measure of judicial coercion immediately, but not later than within 24 hours, in case of participating in the criminal case, to their defense counsel, as well as to send a clear request to the administration of the place of detention;
7) To envisage a demand to review the issues of the necessity of extending the term of the mentioned coercive measure upon the mediation of the investigator or on the initiative of the prosecutor, to make a reasoned decision on that;
8) To envisage the obligation of the investigator to eliminate it with the consent of the prosecutor or by the prosecutor in case of elimination of the need for further application of the judicial coercive measure;
9) To envisage a requirement to contain decisions on eliminating, changing or deciding the meeting of the close relative with a person deeprived of liberty in the decision on appointin a court hearing. .

Thus, in order to properly ensure the right of persons deprived of their liberty to communicate with the outside world, it is necessary to:

- ✓ ***Take steps to properly ensure the right of persons deprived of their liberty to communicate with the outside world by developing effective mechanisms for its realization in the conditions of the novel Coronavirus (COVID-19) pandemic;***
- ✓ ***Carry out awareness-raising activities among persons deprived of their liberty on the order, organization and the possibility of video calls;***
- ✓ ***Make a corresponding change in paragraph 185.1 of the Annex to the RA Government***

Decree No. 1543-Ն of 3 August 2006, envisaging a reasonable frequency of using the possibility of a video call;

- ✓ ***Exclude the presence of penitentiary officers during video calls of persons deprived of their liberty without a reasoned decision on its necessity;***
- ✓ ***Ensure the availability of appropriate guidelines on the calling of the Human Rights Defender's 116 hotline number at all the taxaphones in all Penitentiary Institutions.***
- ✓ ***Take measures to ensure the confidentiality of telephone conversations of persons deprived of their liberty;***
- ✓ ***Carry out cleaning of rooms for long-term and short-term visits of penitentiary institutions, ensuring the regular implementation of sanitary-hygienic and renovation measures;***
- ✓ ***Provide a separate children's room for children to be visited in Penitentiary Institutions, and provide appropriate conditions in the existing children's rooms and furniture, supplementing them with toys and accessories for children of different age groups;***
- ✓ ***Take measures to provide all the rooms of long-term visits to Penitentiary Institutions with private toilets;***
- ✓ ***Make changes in paragraph 15.1 of the Annex to the RA Government Decree No. 1514-Ն of 11 September2020, envisaging an effective and flexible mechanism for receiving the parcels of persons deprived of their liberty.***

4.11. Ensuring the right of persons deprived of their liberty to education

The Human Rights Defender addressed the issues of exercising the right to education of persons deprived of their liberty in their *annual* reports[153] on the activities of the National Preventive Mechanism for 2017, 2018 and 2019, as well as in the 2018 AD hoc public report[154] ‘’On Ensuring the Rights of Women and Juveniles Deprived of Liberty in the Penitentiary System.

[153] See: https://www.ombuds.am/images/files/59297c7b4276c9dbf19cd1f1cfcd92a8.pdf , https://www.ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf and https://www.ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpages, as of 31.03.2021, pages 82-86, 248-254 and 271-278.

[154] See: https://www.ombuds.am/images/files/463afd4660f9e9d2f82014e6147e0bc5.pdf webpage, as of 31.03.2021, pages 49-51

Studies on the right of persons deprived of their liberty to education continued in 2020 as well. Thus, during the visit to "Yerevan-Kentron" penitentiary institution, it was found out that no educational programme or course is implemented for the persons kept there.

During the monitoring visit to the "Armavir" penitentiary institution, it was registered that a number of educational programmes are implemented in the institution, in which 53 persons deprived of liberty participate. Despite the above, the number of persons deprived of their liberty participating in educational programmes at the time of the visit was much smaller.

It is commendable that the courses during the novel Coronavirus (COVID-19) pandemic were practically not interrupted. And s soon as the organizational and methodological issues were regulated, the "Legal Education և Rehabilitation Program Implementation Center" SNCO resumed them online (via Skype).The educational programmes implemented mainly included language courses, including English, Russian, computer skills, business planning and applied arts.

During a conversation with the Human Rights Defender, the staff of the ‘’Center for the Implementation of Legal Education and Rehabilitation Programmes’’ noted that persons deprived of their liberty initially felt skeptical about online courses, especially in the field of Applied Arts, but during the process it has been overcome.

The distance learning courses were organized in the library of the Penitentiary Institution, where there were necessary conditions (including two computers provided by the "Legal Education - Rehabilitation Programme Implementation Center" SNCO - Internet access). Persons deprived of their liberty participated in the trainings in groups of 7- 9 persons in each.

It should be noted that during the private interviews, persons deprived of their liberty praised the existence of educational programmes and expressed a positive attitude towards the acquired knowledge.

In connection with the provision of the right to education to persons deprived of their liberty, the Ministry of Justice of the Republic of Armenia stated that educational courses are organized to teach new knowledge and work skills to persons kept in Penitentiary Institutions and general education programs are implemented in Penitentiary Institutions, as well as support is provided to persons wishing to receive professional, university or postgraduate education..

The Ministry of Justice of the Republic of Armenia noted that in order to expand the opportunities for useful employment of persons deprived of liberty, the "Aesthetic Education Programme for Persons Who Have Committed Offenses’’ implemented by the "Legal Education and Rehabilitation Programme Implementation Center" SNCO from 2020 – besides being implemented in the’’Armavir", "Abovyan" and ‘’Vardashen;; penitentiary institutions, it is implemented also in "Sevan" and ‘’Kosh’’ penitentiary institutions, he also works in ‘’Sevan’’and "Kosh" Penitentiary Institutions. The Ministry of Justice added that the RA Government Decree No. 1717-Լ "On Approving Penitentiary Probation Strategy of

the Republic of Armenia for 2019-2023, the Programme of Measures for its Implementation for 2019-2023, the Financial Evaluation of the Programme and the Formation of the Council Coordinating the Implementation of the Programme and the Procedure of the Organization of its Activities'' of 28 November 2019 approved the program of events including Includes a number of new measures to ensure useful employment of persons deprived of liberty, as a result of which further implementation of the "Aesthetic Education Programme for Persons Who Have Committed Offenses'' will be implemented in all Penitentiary Institutions.

According to the information provided by the Ministry of Justice, "Legal Education and Rehabilitation Programme Implementation Center" SNCO since 1 September 2019, the has been conducting general education for convicted and detained persons under 19 years of age. According to the Ministry of Justice, 13 persons were included in the general education programme implemented in "Abovyan", ''Sevan'', "Armavir" and "Nubarashen" Penitentiary Institutions in the 2019-2020 academic year, and 11 persons in the 2020-2021 academic year.

22 persons were included in the general education programme implemented by "Artik Evening School" SNCO in "Artik" penitentiary institution in the 2019-2020 academic year, and 25 persons in the 2020-2021 academic year.

Regarding the involvement of persons deprived of their liberty in educational programmes organized in Penitentiary Institutions and ensuring their continuing education, the Ministry of Justice of the Republic of Armenia stated that in 2020 (2019-2020 and 2020-2021 academic years combined) 14 persons deprived of their liberty were included in the general education programme, 9 of which 4 from "Abovyan" penitentiary institution, 4 from the "Armavir" penitentiary institution and 1 from "Nubarashen" penitentiary institution. 8 juveniles deprived of their liberty from "Abovyan " penitentiary institution and 4 persons deprived of their liberty from the ''Armavir'' penitentiary institution were included in the professional training.

At the same time, The Ministry of Justice added that the RA Government's Decree No. 1717-Լ "On Approving Penitentiary Probation Strategy of the Republic of Armenia for 2019-2023, the Programme of Measures for its Implementation for 2019-2023, the Financial Evaluation of the Programme and the Formation of the Council Coordinating the Implementation of the Programme and the Procedure of the Organization of its Activities''of 28 November 2019 approved the program of events including the discussions of the issue of the possibility of providing general education to persons deprived of their liberty over the age of 19, which is being discussed with the interested bodies..

It should be noted that by the Orders No. 250-Ա / 2 and 251-Ա / 21 "On Legal Education and Rehabilitation Programmes Implementation Center" of the Minister of Education and Science of the Republic of Armenia of March 2018, SNCO was given the license of main general education-secondary education programmes, respectively.

According to the explanations provided by the Ministry of Education, Science, Culture and Sports of the Republic of Armenia, alternative (author) curricula for the 2020-2021 academic year have been developed based on the model curricula of the educational institutions implementing the general state programmes of the general education programme for the 2020-2021 academic year, taking into account the socio-psychological, educational, cultural and behavioural peculiarities of the detention of persons deprived of their liberty. The "Curriculum of the Special Institution for General Education of Persons Serving a Sentence of Imprisonment and/or Detained Persons" has been compiled in accordance with the requirements of the "Model Curriculum for the 2020-2021 Academic Year of the Main General, Specialized Institutions Implementing Special State Programmes''.

The Ministry of Education, Science, Culture and Sports noted that education in the institution's high school (classroom) is organized on the basis of the "High School Vocational Flow Criteria for the 2020-2021 School Year for Person Serving a Sentence of Imprisonment and/or Detainees" ".

According to the statistics provided by the Ministry of Justice of the Republic of Armenia, in 2020, 33 persons deprived of their liberty received general education (including evening school) in Penitentiary Institutions, 194 - higher professional education, 3 post-graduate education

According to the information received, "Computer Skills", "Decorative-Applied Art", "Business Literacy", "Business Skills", "Business Skills" were implemented in "Abovyan", "Armavir", "Vardashen", "Kosh" and ''Sevan'' Penitentiary Institutions. Pottery and painting technology "," Contemporary applied art ", "Woodworking - wood art carving" professional courses.

In response to the Human Rights Defender's annual inquiry, the Ministry of Justice stated that the Penitentiary Service also cooperates with a number of private, non-governmental and international organizations in order to further expand the work aimed at teaching new knowledge and skills to persons deprived of their liberty. Within the framework of this cooperation, ''DVV International'' Armenian office, in cooperation with ''Ready Steady'' LLC, which represents the Art-Lunch brand, organized a cooking course in ''Vanadzor'' and ''Nubarashen'' Penitentiary Institutions, and within the framework of the "Unhindered Education" programme, a two-month course on "Training in Interior Decoration Construction" has been conducted by the ''Alvan Tsaghik'' Social-Educational Center NGO in "Artik" Penitentiary Institution.

The Ministry of Justice of the Republic of Armenia provided information on the measures taken to provide computer rooms and computers accessible to persons deprived of their liberty, stating that 3 classrooms were furnished in the ''Armavir'' penitentiary institution and the Center for Implementation of Legal Education and Rehabilitation Programmes was established. 2 computers were provided to the penitentiary institution, a movie screen projector, which were installed in the library of the institution. The renovated classrooms of "Vardashen" (4 computers), ''Sevan'' (4 computers) and "Kosh" (3 computers) Penitentiary Institutions were also equipped with computers.

In order to organize the courses in "Artik" penitentiary institution, "DVV International" Armenian office furnished 1 classroom, as well as 1 computer, a movie screen and projector has been given

According to the Ministry of Justice, there are 2 computer rooms with 8 computers in the "Abovyan" penitentiary institution, and there are no computer rooms in "Nubarashen" penitentiary institution. Students and working convicted persons have the opportunity to use their personal computers in a room provided by the administration of the institution.

There are 1 computer each in ‘’Yerevan-Kentron’’ "Hospital for the Convicted", "Vanadzor", "Hrazdan" and "Goris" Penitentiary Institutions, through which, however, only video calls are made.

It should be noted that unequal access to training in all Penitentiary Institutions is a major concern. For example, no trainings were organized in ‘’Yerevan-Kentron’’, "Hrazdan" and "Goris" Penitentiary Institutions.

The protection of the rights of juveniles in places of deprivation of liberty or other places of detention is a special direction of the Human Rights Defender as the National Preventive Mechanism.

It should be noted that the issue of ensuring the rights of juveniles deprived of their liberty, as well as the conditions of detention and the special requirements for the treatment of them, were discussed in detail.

It should be noted that the issue of ensuring the rights of juveniles deprived of liberty, as well as the living conditions and the special requirements for the attitude towards them were discussed in detail. In the 2019 *annual* report[155] on the Activities of the Human Rights Defender as the National Preventive Mechanism.

Due to the special requirements for the attitude to juveniles and their living conditions, it is necessary to address separately the exercise of their right to education.

Thus, the right to education of juveniles deprived of their liberty and its proper realization are of key importance for their re-socialization and reintegration into society. In this regard, the responsibilities of the state are incomparably large, to ensure that no juvenile deprived of liberty is left out of the secondary education system, at the same time, to have a real opportunity to continue education in the future.

According to the information provided by the Ministry of Justice, as of 31 December 2020, 5 male juveniles detainees (4 17 years old, 1 16 years old) were kept in the ‘’Abovyan’’ penitentiary institution and 1 convicted person (20 years old), who became an adult while being held in a penitentiary institution.

[155] See: https://www.ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpage, as of 31.03.2021, pages 229-233.

Regarding the work done to ensure the education and re-socialization of juveniles deprived of liberty, the RA Ministry of Justice noted that in the 2020-2021 academic year, 8 juvenile detainees were included in the general education programme implemented by the ‘’Center for Implementation of Legal Education and Rehabilitation Programmes’’. Eight juvenile detainees were also involved in vocational training at the Penitentiary Institution.

According to the Ministry of Justice, juveniles deprived of their liberty use the library of the Penitentiary Institution, daily outdoor exercises, gym, and participate in organized events.

In this regard, it should be noted that the issues related to the organization of special cultural events in the gymnasium were raised in the 2018 Human Rights Defender's AD hoc public report "On Ensuring the Rights of Women and Juveniles Deprived of Their Liberty in the Penitentiary System"

The measures taken to ensure the right to education of juveniles deprived of their liberty, including the general education programmes implemented in the Penitentiary Institution, are, of course, welcome. However, the Human Rights Defender wants to make it clear that general education should be available in all Penitentiary Institutions, to all persons deprived of their liberty who wish to do so.

The educational programmes implemented in Penitentiary Institutions are still few and far between; they are insufficient to ensure the right to education of persons deprived of their liberty. In this regard, there is a need to develop effective, comprehensive approaches to make education accessible to all persons deprived of their liberty.

There are provisions on the importance of the right to education of persons deprived of their liberty enshrined in domestic law and international instruments, as well as the positions expressed by international organizations. "On Ensuring the Rights of Women and Juveniles Deprived of Their Liberty in the Penitentiary System"

Thus, according to Article 38 of the RA Constitution, everyone has the right to education. According to Article 4, Part 4 of the RA Law ‘’On General Education’’, *basic general education is compulsory, except for the cases provided by law*. According to Article 13 of the RA Law ‘’On Detention of Arrestees and Detainees’’, a detainee has the right to receive an education. The same provision is envisaged by Article 12 of the RA Penitentiary Code.

The importance of ensuring the right to education in correctional institution has also been emphasized in basic international instruments. Thus, in accordance with paragraph 26.6 of the United Nations Minimum Rules for the Administration of Juvenile Justice ("Beijing Rules"), *inter-ministerial and inter-agency cooperation should be encouraged to provide appropriate education or, where appropriate, safe vocational education for juveniles in correctional institutions. They will have a full education after leaving the correctional institution.*

The CPT 2 General Report states *that adequate action plans (employment, education, sports, etc.) are extremely important for the normal living conditions of persons deprived of their liberty. The implementation of these programmes is possible for all institutions, regardless of who they are intended for – convicted or detained persons*[156]. According to CPT law, *all juveniles deprived of their liberty should be kept in age-appropriate institutions with juvenile-specific facilities where the administration has been trained in dealing with juveniles.* Moreover, *special efforts should be made to reduce the risks of long-term social isolation in places of juvenile detention. This involves a holistic approach, using the skills of a range of professionals (including teachers, trainers, psychologists) to meet the individual needs of juveniles in a safe educational and social-therapeutic environment.* The CPT also stressed *that* juveniles *have a special need for physical activity and mental stimulation. Regardless of the period of their deprivation of liberty, they should be offered a full programme of education, sports, vocational training, recreation, or other targeted employment. Physical education should be an important part of that programme.*

The CPT noted that *the absence of targeted occupations was particularly detrimental to juveniles deprived of their liberty and in particular in need of physical activity and mental stimulation. Juveniles deprived of their liberty should be provided with comprehensive educational, sports, vocational training, leisure and other extracurricular activities during the day*[157].

European Prison Rules[158], which provide for the deprivation of liberty at any place of liberty, include the provision of adequate employment, leisure (sports, games, cultural activities, other forms of leisure) and access to educational programmes. *Access to educational programmes for all persons, ensuring their versatility as much as possible, taking into account the individual needs and desires of the individual. Special attention should be paid to the education of juveniles deprived of their liberty*[159].

According to Rule 28.7 of the European Prison Rules, *the education of persons deprived of their liberty must, as far as possible, be integrated into the existing education and vocational training system in the country, so that they can continue their education and vocational training without difficulty.*

Taking into account the abovementioned, it is necessary to:

- ✓ ***Ensure the proper realization of the right to education of persons deprived of their liberty, in particular, organize regular and targeted educational programmes and***

[156] See: https://rm.coe.int/1680696a3f webpage, as of 31.03,2021, paragraph 47.

[157] See: the 24th General Report on CPT Activities, covering 1 August 2013 and 31 December 2014, at https://rm.coe.int/1680696a9c webpage, as of 31,03.2021, page. 107.

[158] See: https://rm.coe.int/16806f5b92 webpage, as of 31.03.2021, Rules 26.1-26.3, 26.6, 26.9, 26.10, 27.3, 27.6, 28.1-28.5, etc.

[159] See: https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae webpage, as of 31.03.2021, Rules 28.1 and 28.3.

professional trainings in Penitentiary Institutions;

- ✓ ***Continuously promote the involvement of persons deprived of their liberty in educational programmes, while expanding their diversity;***
- ✓ ***Take measures to ensure the proper realization of the right to education of juveniles deprived of their liberty (including secondary education), to organize regular, systematic, targeted trainings and events (educational, cultural, sports, etc.) for them.***

4.12. Work and employment

Employment of persons deprived of their liberty in Penitentiary Institutions providing them with the necessary work contributes to their re-socialization, ensuring the smooth process of reintegration into society and of course, prepares them for release. Absence of employment in Penitentiary Institutions can lead to strained interpersonal relationships, lead to behavioural and emotional disturbances and outbursts, which can directly affect the discipline of persons deprived of their liberty.

As a result of the monitoring and studies conducted in 2020, problems related to the adequate employment of persons deprived of their liberty in Penitentiary Institutions were revealed.

Thus, during the visit to the "Armavir" penitentiary institution, only 43 convicted persons were involved in the work carried out in the institution (technical-economic and unpaid).

Serious problems related to the employment of persons deprived of their liberty were found in ‘’Yerevan-Kentron’’ penitentiary institution. According to the information provided during the visit,no educational programmes or courses are provided for persons held in a penitentiary institution. It is not intended to provide a position or opportunity for persons deprived of their liberty to be involved in technical and economic services or other activities.

However, it should be emphasized that the complete absence of educational activities and employment opportunities in the Penitentiary Institution is extremely problematic and does not meet the goal of re-socialization of persons deprived of their liberty.

It is noteworthy that in the absence of re-socialization measures for persons deprived of their liberty in the Yerevan-Kentron Penitentiary Institution, no incentive measures were applied to persons deprived of their liberty in 2020, which is problematic.

The Ministry of Justice of the Republic of Armenia stated in its official explanations that persons deprived of their liberty were involved in various activities in 2020. In particular, the latter are involved in paid and unpaid technical and economic services of Penitentiary Institutions, self-made associations, work on a contractual basis in the "Support to the Convicted Persons" Foundation, and convicted persons serving sentences in an open correctional institution work outside the institution with other employers.

Below is a table on the number of convicted persons involved in the work in 2020 and types of work activities.

Type of Work activity	**Number of Convicted Persons involved in the Work Activities in 2020**
Activities of the "Support to the Convicted Persons" Foundation	58
Technical and economic maintenance works	135
Unpaid work	160
Work at other employers	35
Automated units	177
TOTAL	***565***

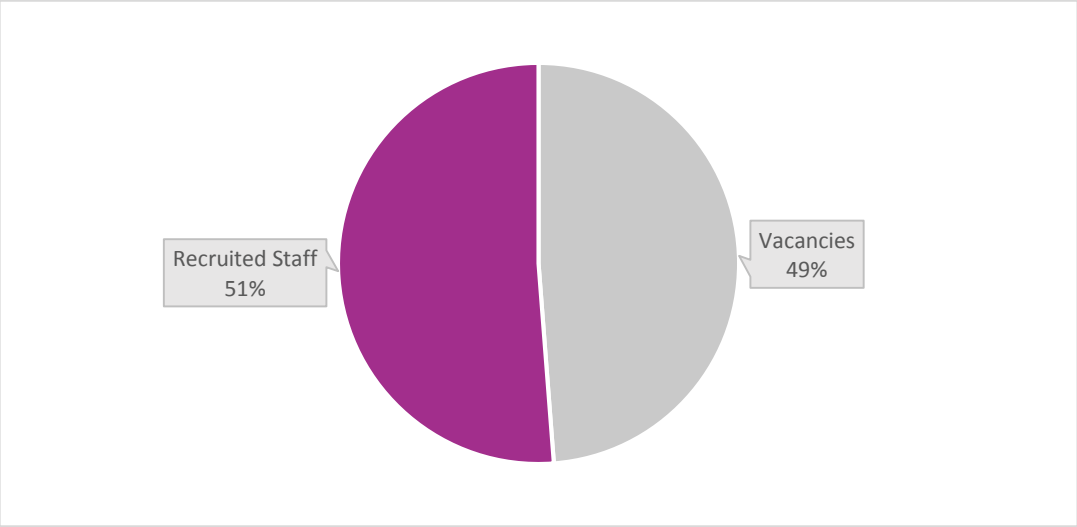
According to the Ministry of Justice, the number of convicted persons involved in the work in 2020 was **26.9%** (2100) of the average list number of the staff.

According to the information provided by the Ministry of Justice of the Republic of Armenia, as of 27 January2021, the number of staff units of convicted persons involved in technical and economic work in Penitentiary Institutions is 164, of which 80 are vacant. It should be noted that compared to the previous year, these statistics have not changed significantly (as of 24 January2020, 84 of the 164 available positions were vacant).

Number of recruited staff of convicted persons involved in technical and economic activities and the statistics of vacancies as of 27 January 2021 are presented below and .

Penitentiary Institution	**Alleged Positions**	**Vacancies**

‘’Nubarashen’’	34	31
‘’Armavir’’	25	15
‘’Kosh’’	18	7
‘’Sevan’’	15	10
‘’Abovyan’’	15	2
‘’Vardashen’’	14	2
‘’Artik’’	13	1
‘’Vanadzor’’	8	4
‘’Hospital for the Convicted’’	8	4
‘’Hrazdan’’	7	2
‘’Goris’’	7	2
‘’Yerevan-Kentron’’	-	-
TOTAL	**164**	***80***



As can be seen from the abovementioned statistical data, almost half of the positions of convicted persons involved in technical and economic work in Penitentiary Institutions remain vacant, which is worrying. **In this regard, it is necessary to take appropriate measures to fill the abovementioned vacancies as much as possible.**

The Ministry of Justice also provided information on detainees involved in paid and unpaid work in Penitentiary Institutions, according to which, in 2020, detainees were not included in paid work, and 17 detainees were not included in unpaid work, not during weekends, for no more than 2 hours per day.

Article 17 of the RA Penitentiary Code lists *employment, education, culture, sports and other such activities as the main means of correction of convicted persons.* Article 85 1 1 of the Penitentiary Code provides that *a convicted person, if possible, is provided with a job or has the right to provide for themselves (...)*. According to paragraph 2 of Article 1 of the RA Law ''On Detention of Arrestees and Detainees'', *a detainee has the right to work.*

Being in a Penitentiary Institution is not an end in itself. **Persons deprived of their liberty acquire the necessary skills through work, which can further contribute to their reintegration into society.** It is also important from the point of view of re-socialization, because while working, a person develops a respectful attitude towards work, norms of coexistence, and members of society. Work is also important in terms of developing law-abiding behaviour.

Regarding the issue of employment of persons deprived of liberty, the RA Ministry of Justice stated that the package of draft laws "On Making Amendments to the Penitentiary Code of the Republic of Armenia" and "On Making Amendments to the Law of the Republic of Armenia" on the Prosecutor's Office is being amended. Among other things, it is planned to regulate the issue of providing work and employment to convicted persons serving sentences in closed, semi-closed correctional institutions, giving them wider opportunities to engage in other activities outside the cell.

During the monitoring visits, persons deprived of liberty complained about the absence of employment in Penitentiary Institutions, including the absence of sports tournaments and cultural events. For example, during private interviews with representatives of the Human Rights Defender at the ''Yerevan-Kentron'' Penitentiary, persons deprived of their liberty stated that their main occupation in the institution was watching television. However, it should be noted that some cells did not have a TV.

According to the information received, persons deprived of their liberty are engaged in reading. During the visit, the library of ''Yerevan-Kentron''penitentiary institution was inspected, which was equipped with books and digital video discs (DVDs). Prisoners used digital CDs through DVD players in their cells. Although the library was provided with a wide range of books, there was no modern literature, as a result of which some of the persons deprived of their liberty did not use the library. During a conversation with the staff of the National Preventive Mechanism, the representatives of the penitentiary

administration said that persons deprived of their liberty often raise the issue of filling the library with magazines.

During the monitoring visit, it was also stated that the priest visiting ‘’Yerevan-Kentron’’ penitentiary institution, due to the novel Coronavirus pandemic, did not visit the persons deprived of liberty from the beginning of the quarantine. It should be emphasized that before the novel Coronavirus pandemic, the priest frequently visited the Penitentiary Institution, carried out various religious events, and distributed religious literature.

The availability of a library and literature in a Penitentiary Institution plays an important role in ensuring the employment of persons deprived of their liberty.

According to the explanations provided by the Ministry of Justice of the Republic of Armenia on the steps taken to ensure the literature of penitentiary libraries, in 2020 the libraries of Penitentiary Institutions were replenished with about 400 titles of fiction and religious literature, which is welcome.

Organizing training in Penitentiary Institutions is crucial to ensuring the employment of persons deprived of their liberty.

According to the information provided by the Ministry of Justice of the Republic of Armenia, a total of 194 persons deprived of their liberty participated in the trainings conducted by the ‘’Center for Legal Education and Rehabilitation Programmes’’ in 2020. According to the Ministry of Justice, "Computer Skills", "Decorative-Applied Arts", "Business Literacy" courses were held in the "Abovyan" penitentiary institution, in which 25 persons participated. "Pottery and pottery firing and painting technology", "Contemporary applied art", "Woodworking and wood art carving", "Business skills", "Armenian language" implemented in "Armavir", "Vardashen", ‘’Sevan’’ and "Kosh" Penitentiary Institutions "English Language" and "Computer Skills Training" courses were attended by 94, 29, 33 and 13 persons from each penitentiary institution, respectively.

The Ministry of Justice of the Republic of Armenia also noted that "DVV International" Armenia office together with "Ready Steady" LLC, which represents "Art-Lunch" brand, organized a cooking course in "Nubarashen" and "Vanadzor" Penitentiary Institutions. 14 convicted persons of the "Nubarashen" penitentiary institution and 5 convicted persons of "Vanadzor" penitentiary institution received relevant certificates at the end of the course. "DVV International’’ Armenian office, with the financial support of the Ministry of Foreign Affairs of the Federal Republic of Germany, has implemented" ‘’For Human Rights. Education in Penitentiary Institutions ”programme, within the framework of which an“ Education for Change ”journalism competition was held for journalists and convicted persons from May to September 2020, 23 convicted persons took part in the competition, and the participants who won prizes were awarded.

According to the Ministry of Justice, in September-November 2020, the ‘’Alvan Tsaghik Social-Educational Center’’ NGO organized a two-month "Training in Interior Construction" course at the ‘’Artik’’ Penitentiary Institution within the framework of the "Unhindered Education" programme, which was attended by 14 convicted persons. Within the framework of the mentioned programme, 3 convicted persons of the "Nubarashen" penitentiary institution and 9 convicted persons of the "Vardashen" penitentiary institution also participated in the training through work-based education.

The abovementioned steps taken to ensure the employment of persons deprived of their liberty are welcome, but it should be noted that the means of providing employment for persons in penitentiary institutions remain insufficient. Many ongoing projects are temporary and non-recurring.

According to the Ministry of Justice, due to the novel Coronavirus pandemic, by 2020, the organization of group events in all Penitentiary Institutions has been significantly limited. According to the provided data, in 2020, 54 sports events (850 persons participated), 10 enlightenment events (96 persons participated) and 9 cultural events (230 persons participated) were organized in Penitentiary Institutions.

In this regard, the availability of various means of employment in the Penitentiary Institution, their availability, as well as the frequency of implemented programmes, courses and events are very important. Employment measures should be organized in all Penitentiary Institutions, including a larger number of persons deprived of their liberty.

Thus, in order to ensure adequate employment for persons deprived of their liberty, as well as for their effective reintegration into public life after serving their sentence, it is necessary to:

- ✓ ***Increase the level of employment by involving persons deprived of their liberty in various targeted occupations (work, education, sports, etc.);***
- ✓ ***Increase the involvement of persons deprived of their liberty in both domestic service and other possible activities of Penitentiary Institutions, taking into account their capacity, profession, sex, age and other relevant circumstances;***
- ✓ ***Carry out re-socialization activities of persons deprived of their liberty in the ‘’Yerevan-Kentron’’penitentiary institution, including educational events, provide them with employment the opportunity to work;***
- ✓ ***To supplement the libraries of Penitentiary Institutions with modern literature, codes and magazines;***
- ✓ ***Regularly organize educational courses, as well as cultural, sports, information and other events, develop employment programmes for persons deprived of their liberty, encouraging their participation;***
- ✓ ***Create sports and other clubs in Penitentiary Institutions, to carry out continuous work in the direction of organizing various events;***
- ✓ ***Encourage a person deprived of liberty to engage in creative work, support it as much***

as possible by creating the necessary preconditions;

4.13. Organizing social, psychological and legal activities with persons deprived of their liberty

Deprivation of liberty can already lead to psychological problems, so the psychological support provided to persons deprived of their liberty is important for their psychological stability and reintegration into society. Moreover, ineffective professional support can lead to negative consequences for a person.

Studies conducted in 2020 show that the issue of social, psychological and legal work with persons deprived of their liberty in Penitentiary institutions remains quite problematic. The abovementioned works need to be improved in order to effectively adapt to the Penitentiary Institution, to effectively prevent conflicts within the institution, to assess individual risk, to change the value-behavioural approaches of convicted persons, to prepare for reintegration into society, and to effectively address other issues.

According to the information provided by the Ministry of Justice, as of 10 January 2021, it was alleged 1 position of psychologist in each department of SPLA departments of 10 Penitentiary Institutions and 3 positions of psychologist in the "Nubarashen" and "Armavir" penitentiary institutions. The abovementioned positions are not recruited in the ‘’Yerevan-Kentron", "Artik", "Hrazdan" and "Goris" penitentiary institutions, and only one of the 3 positions of "Armavir" penitentiary psychologist is recruited.

Thus, persons deprived of their liberty in the abovementioned 4 Penitentiary Institutions do not receive sufficient professional psychological support, and the 2 vacancies of psychologists in the ‘’Armavir’’ penitentiary institution with 1240 inmate capacity and 699 (as of 31 December 2020) persons deprived of their liberty excludes the opportunity to exercise effective psychological work. The issue is more problematic considering that in 2020, 187 cases of 213 self-injury hunger strikes were registered in the ‘’Armavir’’ penitentiary institution, from the perspective of which psychological work is of primary importance.

According to the information provided during the visit to the "Armavir" penitentiary institution, various representatives of the institution's administration often have private interviews with the persons deprived of liberty who have committed self-injury instead of a psychologist.

Moreover, in 2019 the most cases of suicide were registered in the "Armavir" penitentiary institution (2), and in 2020 - the only case of suicide. Preventing them requires proper risk assessment, psychologically targeted work with risk groups, which is simply impossible to do in the absence of a sufficient number of specialists.

It should also be noted that in the Penitentiary Institutions where one psychologist is provided, the number of persons deprived of liberty is very different (‘’Yerevan-Kentron’’ penitentiary institution - 60, "Goris" penitentiary institution - 182, "Abovyan" penitentiary institution - 265 "Vardashen" penitentiary institution - 339, "Hospital for the Convicted" penitentiary institution - 464, ‘’Sevan’’ penitentiary institution - 548, "Kosh" penitentiary institution - 640). Therefore, in order to ensure the effectiveness of the work done by psychologists, it is necessary to maintain the digital ratio of persons deprived of their liberty in Penitentiary Institutions to psychologists.

Two of the three positions of the psychologist of the ‘’Armavir’’ penitentiary institution were vacant during the visit to the Penitentiary Institution (July 2020). During the visit, it was stated that the only psychologist in the SPLA department of the institution does not have the opportunity to provide in-depth professional help due to a large number of persons deprived of their liberty, a short period of time, and in the absence of an appropriate methodological and strategic plan.. During the visit, one of the employees of the "Legal Education and Rehabilitation Programmes Implementation Center" SNCO told the Human Rights Defender's representatives that they had a psychologist's education and sometimes had psychological conversations with persons deprived of their liberty. This clearly indicates the urgent need for psychological services.

During the visit to the ‘’Yerevan-Kentron’’ penitentiary institution, one of the three positions of the psychologist of the SPLA department of the penitentiary institution was vacant, but a psychologist was involved in the work of the penitentiary institution on a contractual basis.

According to the information provided during the monitoring visits, the representatives of the SPLA Department meet with the persons deprived of their liberty in the quarantine department of the institution at least once, the main purpose of which is to get acquainted with the internal regulations of the correctional institution. After the general meeting in the ‘’Yerevan-Kentron’’ penitentiary institution, the psychologist once again visits the persons deprived of liberty for psychological work. The psychologist of the penitentiary institution noted that the works are mainly of the nature of thematic conversations, as they are detained for a short period of time, it is not possible to organize "other long-term" events.

Prisoners said in private interviews with the Human RightsDefender that they often had meetings with a psychologist, which were generally positive.

During private interviews with persons deprived of their liberty, it was revealed that some of them needed legal action and legal assistance. Thus, one of the detainees kept in the institution stated that they had a number of issues in the criminal case that they wanted to discuss with a lawyer, but did not have a lawyer involved in the case, as a result of which they were unable to effectively defend their rights (during the criminal proceedings, making telephone calls was prohibited).

Another detainee informed representatives of the National Preventive Mechanism that they wanted to connect with his lawyer.

However, the body conducting the proceedings decided to ban him from making telephone calls, as a result of which, according to them, the administration of the penitentiary institution forbade them to make telephone calls even to a lawyer.

Both issues were submitted to the management of the ‘’Yerevan-Kentron’’ penitentiary institution for the immediate solution of the issues raised.

During the monitoring visits, it was reported that notes were made on the personal cards of persons deprived of their liberty regarding meetings with a psychologist, which were mainly of a formal, extremely laconic nature. Work with persons with risky tendencies also does not have a clear regulation; The psychologist of ‘’Yerevan-Kentron’’ penitentiary institution kept a register of "Individual Receptions of Detained and Convicted Persons", where the existing records were not specific, they were of a typical nature, including only a simple list of actions. All the cases when the person deprived of liberty refused to visit a psychologist were recorded in the mentioned register.

It should be noted that there was no clear understanding of the functions of a psychologist among persons deprived of their liberty, due to which the motivation to receive psychological services in Penitentiary Institutions is extremely low.

When talking about psychological work in Penitentiary Institutions, it is necessary to refer to the correctional plans of persons deprived of their liberty.

Thus, an individual correction plan is kept in the personal card of detained and convicted persons, in which, among other information, the psychological characteristics, emotional state, adaptability, interpersonal relations, personal qualities, temperament, intellectual level of the person deprived of liberty must be presented. In addition, the motivations for negative behaviour, the motivating factor for criminal behaviour, the risk of committing a crime again, negative tendencies, social needs and opportunities should be assessed. The collection of such in-depth psychological information presupposes a comprehensive and professional psychodiagnostic process using psychological research methodology: in-depth interview, structured observation, testing (questionnaire), etc. However, during the monitoring it was registered that none of the mentioned methods is implemented consistently. There are no necessary tools, they are not developed norms regulating this process, the positions of relevant specialists are not recruited.

In the "Armavir" penitentiary institution, in the individual correctional plans of persons deprived of liberty, problems related to the managerial procedure and having systematic nature were registered. The records were universal, of a typical nature, with no features, and included only a simple enumeration of the vowel operations. The notes did not reflect the dynamics of the work done, its evaluation criteria. The revision of the plan was reflected only in the form of a change of dates.

Correctional plans in the individual cards of convicted persons are very concise, they are just instructions to work in a certain direction, do not include planning of multifaceted work with the person and details, do not have a multidisciplinary orientation, are cut from the evaluation of work results, which is not carried out properly. The main method of work is conversations, the content, structure, purpose, direction of which are not properly recorded. There is no ongoing evaluation of the activities envisaged in the correction plan, there is no process of regular revision of the plan.

In this regard, it is necessary to include in the correction plan a clear list of planned actions and the sequence of their implementation, showing consistency in their proper implementation, as well as in the direction of their revision and change as necessary.

Regular professional training of psychologists is also important in ensuring the effectiveness of psychological support. The latter noted that professional courses and trainings will contribute to the more effective organization of work with persons deprived of their liberty.

During the conversations with the representatives of the Human Rights Defender, the psychologists of the penitentiary institutions emphasized the issue of the lack of the necessary tools for the implementation of professional activities, the absence of methodological guidelines, as well as the lack of room and working conditions for psychologists.

Such working conditions can negatively affect the social-psychological work with persons deprived of their liberty and their effectiveness.

In response to the Human Rights Defender's annual inquiry, the Ministry of Justice of the Republic of Armenia provided information that in 2020, in cooperation with the Armenian branch of ‘’P-H International’’ organization, the ‘’Center for Implementation of Legal Education and Rehabilitation Programmes’’ SNCO, the ’’Assistance Tool for Juvenile Risks and Requirements (needs) Developed Within the Framework of the Project ``Support to the Development of Child-Friendly Approaches and Structures in the Newly Established Probation Service in the Republic of Armenia’’ has been implemented and was tested in work with 10 juveniles deprived of liberty in the "Abovyan" penitentiary institution. For the 15 staff members of the penitentiary institution, 3 trainings on professional ethics and skills development of the mentioned tool were conducted, after which the tool is used in working with juveniles deprived of liberty.

The ‘’Center for Legal Education and Implementation of Rehabilitation Programmes’’ SNCO, in cooperation with the Department of Social, Legal and Psychological Affairs of the Central Body of the Penitentiary Service, has developed a draft tool for assessing the risks and needs of adults deprived of their liberty, which is being tested as part of pilot projects in ‘’Nubarashen’’, ‘’Vardashen’’, ‘’Vanadzor’’ and ‘’Sevan’’ penitentiary institutions.

The Ministry of Justice of the Republic of Armenia added that taking into account the peculiarities of working with persons deprived of their liberty in Penitentiary Institutions, the training courses for Penitentiary Institutions included the peculiarities of working with vulnerable groups, psychological peculiarities of interpersonal relationships, conflict management and stress management techniques. topics on the organization of the process of re-socialization of deprived persons.

Summarizing the abovementioned, it is necessary to:

- ✓ ***Review the staff of psychologists in the Penitentiary Institution, in accordance with the inmate capacity, as well as the amount of necessary psychological support, assessing the needs of the services provided in advance;***
- ✓ ***Recruit the positions of a psychologist in Penitentiary Institutions, to fundamentally improve the social guarantees and working conditions of the employees of the social-psychological sphere of the Penitentiary Institution;***
- ✓ ***Review the form and content of the personal card of persons deprived of their liberty, by properly recording the psychological work performed in the relevant documents;***
- ✓ ***Review the professional approaches used by the SPLA department and apply new effective methods;***
- ✓ ***Develop methodological guidelines to increase the effectiveness of psychological services in Penitentiary Institutions;***
- ✓ ***Take measures from the very first day of admission of a person deprived of liberty to a Penitentiary Institution to assess their social-psychological needs and to draw up a proper individual correction plan;***
- ✓ ***Regularly organize professional trainings and courses for the staff of the SPLA Department of Penitentiary Institutions emphasizing the peculiarities of the Penitentiary Service.***

4.14. The main directions of the fight against the criminal subculture in Penitentiary Institutions

Within the framework of the National Preventive Mechanism, studies are being carried out on the criminal subculture in Penitentiary Institutions, its spread and public danger, which were stated in the Human Rights Defender's AD hoc public report[160] of "Concept for Combating Criminal Subculture in Penitentiary Institutions of the Ministry of Justice of the Republic of Armenia" and in the Annual reports

[160] See; https://ombuds.am/images/files/8e7bd6769c0010926cd2537139aa3120.pdf webpage, as of 31.03.2021.

on the 2018[161] and 2019[162] activities of the Human Rights Defender as the National Protective Mechanism. In connection with the issue, a set of proposals aimed at excluding the favorable conditions for the existence of a criminal subculture, reducing the impact of the subculture, and its prevention was summarized.

Developed by the Ministry of Justice of the Republic of Armenia in 2018 and A draft on making an amendment to the Criminal Code was submitted to the Human Rights Defender, which proposed measures to combat the criminal subculture. A number of proposals were submitted by the Human Rights Defender's Office in connection with the draft, after which it was revised and adopted by the RA National Assembly on the 22nd of January, 2020.

As a result, Articles 223.1-223.4 of the RA Criminal Code establish liability for the following acts:

- Giving, receiving or maintaining the highest status of criminal hierarchy,
- Creating or leading a criminal subculture group,
- Participating in or involving a criminal subculture group,
- Applying to a member of who is in the group of the criminal subculture or a person with the highest criminal status.

The Human Rights Defender has repeatedly stated that, while accepting in principle the legislative changes in the criminal policy aimed at preventing its spread, its impact, however, there are problems with the definition of the provisions of the Criminal Code in relation to the criminal subculture. In this regard, it is especially important to develop studies on relevant scientific and theoretical tools, as well as to provide relevant training for investigators, prosecutors and judges, which will help to avoid practical problems with the qualification of the abovementioned criminal acts in law enforcement practice.

In this connection, in 2020 the Academy of Justice of the Republic of Armenia published "Criminal legal description of actions related to the criminal subculture. (Scientific-Practical Comments) "manual[163], which is welcome.

However, the Human Rights Defender reaffirms their position that a comprehensive approach to criminal subculture in Penitentiary Institutions should be taken, taking both concrete practical steps and legislative amendments.

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[161] See: https://ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf webpage, as of 31.03.2021, pages 337-343.

[162] See:https://ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpage, as of 31.03.2021, pages 406-411.

[163] See: http://justiceacademy.am/#1948 webpage, as of 31.03.2021.

It should be emphasized that in the fight against the criminal subculture, it is necessary to ensure the proper realization of human rights and the fundamental principles of equality before the law.

As a result of the study, the following important issues requiring practical steps in terms of reducing the impact of the criminal subculture in Penitentiary Institutions were identified:

1) staff of the penitentiary system;
2) work with persons deprived of liberty;
3) education and employment of persons deprived of their liberty;
4) general living conditions.

Thus, the staff of the penitentiary institution, which, among other functions, ensures the discipline of persons deprived of their liberty in the institution, is of key importance in the fight against the criminal subculture.

Penitentiary officers, however, face a number of obstacles and challenges in carrying out their institution's important disciplinary mission. **Appropriate efforts need to be made to invest resources in the staffing of the administration, a sufficient number of staff, social security and proper working conditions for staff, and professional training for the latter.**

It can also be emphasized that the cornerstone of the penitentiary system should be a respectful, human rights-based, ethical attitude towards every person deprived of liberty, which contributes to the formation of an atmosphere of mutual trust. This is a very important precondition for the effective management of the penitentiary institution, which can significantly reduce the role of persons with a criminal subculture.

In this regard, the satisfaction of the basic needs of persons deprived of their liberty by the representatives of the public authorities creates a respectful attitude towards the latter - an atmosphere of trust. Therefore, it is necessary to strictly observe the following principle: The basic and legitimate needs of persons deprived of their liberty must be met by the State.

At the same time, in Penitentiary Institutions it is necessary to exclude the provision of any illegal privileges to persons deprived of their liberty; to strictly observe the principle of equality of all before the law defined by Article 28 of the RA Constitution. Failure to comply with this principle undermines the rule of law. Representatives of the criminal subculture easily gain privileged status in these conditions; they spread informal relations throughout the institution.

In order to reduce the impact of the criminal subculture, it is essential to carry out re-socialization activities with persons deprived of their liberty in Penitentiary Institutions, the educational opportunities

offered and the provision of employment[164]. Such opportunities will encourage persons deprived of their liberty to develop respect for human beings, society, rules of coexistence, traditions, and law-abiding behaviour**. It is especially important to conduct ongoing social, psychological and legal work with those who are not involved in the criminal subculture or who "reject" it.**

In addition to practical steps, some structures of existing legislation need to be reviewed. Legislative gaps and unclear regulations can lead to wide discretion of state bodies, corruption risks, as well as being used by members of the criminal subculture to strengthen their influence to strengthen their position.

In this regard, legislative changes should be made in relation to the following issues: deprivation of liberty as an exceptional measure;

1) Individual risk assessment;
2) Placement of persons deprived of liberty on the basis of risk assessment according to penitentiary institutions, types of correctional institutions, cells;
3) Introduction of an effective and predictable system of incentives and penalties;
4) Strengthening relations with the outside world;
5) Early release from serving the sentence.

Discussing the issues of legislative regulation, first of all, it should be noted that from the point of view of preventing the spread of criminal subculture and its influence, it is possible to apply alternative punishments to imprisonment as much as possible.

Individual risk assessments should be conducted among those deprived of their liberty to identify high-risk individuals. At the same time, assessments are very important for developing correctional programmes, working with them, and reintegrating them into society.

The current RA penitentiary legislation, however, does not establish an effective system for assessing the risk and positive or negative behaviour of persons deprived of their liberty, which is a possible tool in terms of managing the penitentiary institution and preventing the spread of criminal subculture. **Therefore, the Human Rights Defender reaffirms their position that it is necessary to introduce in the penitentiary legislation a consistent mechanism for the ongoing assessment of the risk and behaviour of persons deprived of their liberty on the basis of clear criteria.**

From the point of view of discipline, an effective system of incentives and penalties is very important. It should provide an opportunity to respond to the challenges posed by the criminal subculture and its perpetrators. At the same time, incentives should provide real benefits for a person deprived of their liberty that are predictable. In other words, the person should be aware of what actions, inactions or

[164] See: Subchapters 4.11 and 4.12 of this report.

behaviours they will be encouraged for, and what kind of real consequences the incentive will have for them.

The issue of imposing penalties should be regulated by the same logic. Persons deprived of their liberty should be clearly aware that being involved in a criminal subculture engaging in prohibited activities (such as organization of gambling or participating in gambling) causes adverse consequences that will prevent early conditional release from serving a sentence from being transferred to a milder degree of isolation.

Next, it is very important to keep inmates connected with the outside world, a possibility that has been significantly curtailed in 2020 due to the novel Coronavirus pandemic. It should be noted that close family ties directly affect the well-being of persons deprived of their liberty, their desire to return to their families, and the manifestation of law-abiding behaviour, which in turn prevents them from committing new offenses from the influence of criminal subculture[165].

Finally, at the time of deprivation of liberty throughout the execution of the sentence, the person's only requirement is to be released as soon as possible and to return to society. This desire and the expectations of the latter can be a very important factor in the manifestation of positive behaviour. Therefore, it is necessary to emphasize the importance of the institution of early conditional release from serving a sentence, the real possibility of which can be a major impetus for the resocialization of the convicted persons[166].

The Human Rights Defender considers it possible to state that all the abovementioned steps against the spread of subculture in Penitentiary Institutions should be carried out in appropriate combination, as they are closely interconnected and complement each other.

At the same time, it should be emphasized that the spread of the criminal subculture is not limited to Penitentiary Institutions. It is extended to the wider public, so it must also be reflected in the State's anti-crime policy, ensuring the effective use of measures.

Taking into account the abovementioned, in the fight against the existing criminal subculture in Penitentiary Institutions, it is necessary to show a systematic-consistent approach, taking measures to reduce the role of the criminal subculture, both at the practical and legislative level, with the appropriate combination.

[165] See: Chapter 4.10 of this report.

[166] See: Chapter 10.1 of this report.

4.15. Penalties and incentives in Penitentiary Institutions

The issues of the application of penalties and incentives for persons deprived of their liberty, including the differentiated application of disciplinary penalties in similar cases, the common policy of application of penalties, as well as their justification, continue to be in the focus of the Human Rights Defender. The abovementioned issues were studied during the monitoring visits to Penitentiary Institutions in 2020.

It should be noted that for decades, the penitentiary policy in Armenia has contained only punitive elements and when ensuring the execution of a sentence of imprisonment, the administrations of Penitentiary Institutions focused mainly on ensuring the regime of persons deprived of their liberty while serving their sentences in Penitentiary Institutions, the prevention of escape. and discipline.

The obvious quantitative difference between the penalties and incentives applied in Penitentiary Institutions in 2020 (2028 penalties and 13 incentives) is an eloquent fact.

According to the information provided by the Ministry of Justice of the Republic of Armenia, from 1 January to 31 December, 2020, a total of 2,028 disciplinary penalties were imposed on persons deprived of their liberty in Penitentiary Institutions, of which 758 reprimands, 239 severe reprimands, 1031 Transfer to a disciplinary cell.

Below are the types of penalties imposed on detained and convicted persons in 2020 and their number by individual Penitentiary Institutions.

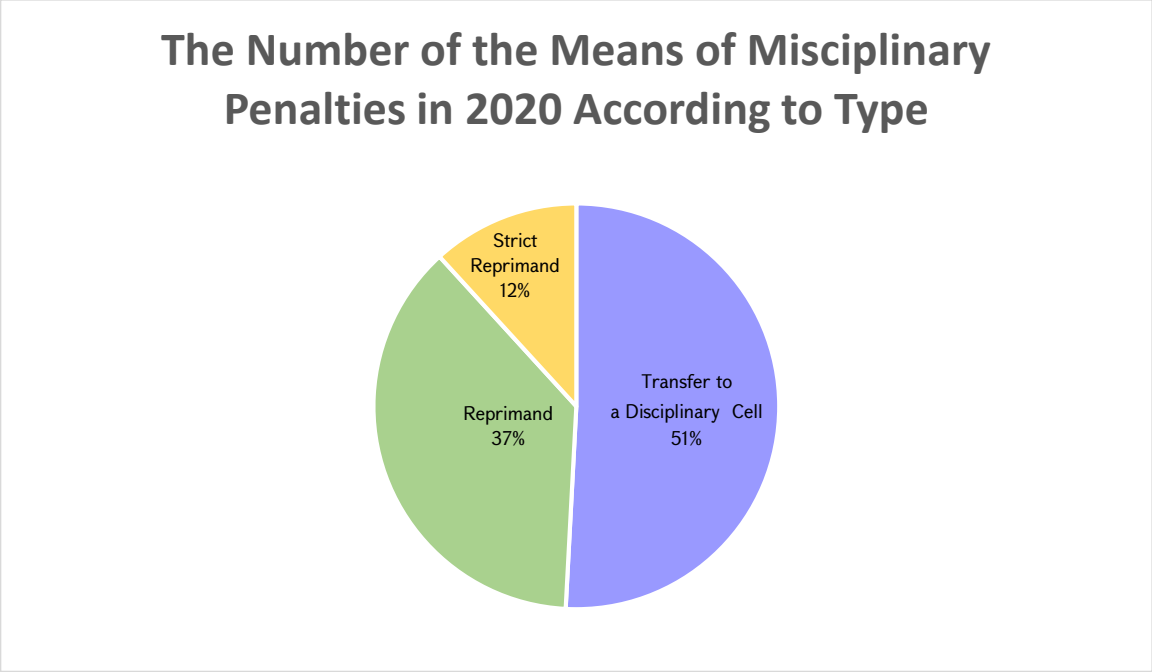
Penitentiary Institution	**Reprimand**	**Strict Reprimand**	**Transfer to the Disciplinary Cell**	***Number of Penalties***
‘’Armavir’’	268	85	366	*719*
‘’Vanadzor’’	104	24	114	*242*
‘’Nubarashen’’	140	16	66	*222*
‘’Artik’’	30	21	154	*205*
‘’Hrazdan’’	65	16	67	*148*
‘’Hospital for the Convicted’’	33	21	69	*123*
‘’Kosh’’	20	26	71	*117*

‘’Sevan’’	2	13	78	*93*
‘’Vardashen’’	48	10	17	*75*
‘’Goris’’	19	6	26	*51*
‘’Abovyan’’	27	1	3	*31*
‘’Yerevan-Kentron’’	2	0	0	*1*
TOTAL	***758***	***239***	***1031***	***2028***

As can be seen from the abovementioned statistics, transfer to a disciplinary cell is applied much more often than the other two types of disciplinary penalties and **50.8% of the punishments applied in 2020 are transferred to a disciplinary cell.**

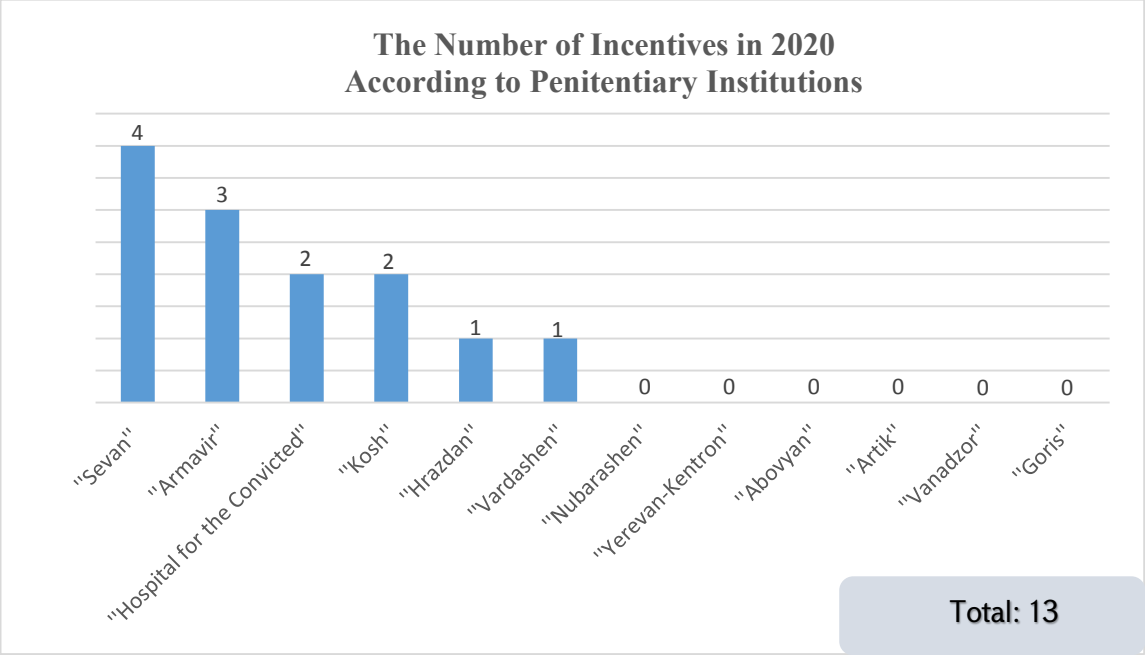
The issue of frequent application of the disciplinary penalty of transfer to a disciplinary cell in large numbers, was also raised in last year's report[167]. It should be noted that if in 2019 the transfer to the disciplinary cell was almost half of the disciplinary penalties applied, then in 2020 - more than half, **which is very worrisome**.

[167] See: the Annual report of the Human Rights Defender on the activities of the National Preventive Mechanism in 2019 at https://www.ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpage, as of 31.03.2021, pages 296-300.



According to the information provided by the Ministry of Justice of the Republic of Armenia, 13 incentives were applied to persons deprived of their liberty in 2020, of which 11 were short-term visits, 1 was early removal of a previously imposed penalty, and 1 was additional outdoor exercise.

Below are the abovementioned statistics by Penitentiary Institutions.



Such a small amount of incentives used in 2020 **is simply unacceptable**. For comparison, it should be noted that the already small number of incentives (56) used during the previous year decreased by 76.8%.

The small number of incentives used and their total absence in 6 of the 12 Penitentiary Institutions can in no way contribute to the proper re-socialization of persons deprived of their liberty.

Thus, the abovementioned statistics and analyzes show a severe disproportion in the application of the penalty and incentive measures, inelasticity, as well as absence of effective types and criteria for their application.

When referring to penalties, it is necessary to emphasize the issue of their justification. Thus, the monitoring of the 2020 decisions on the transfer of persons deprived of their liberty in Penitentiary Institutions during the monitoring revealed that the majority of them relate to the possession of prohibited items, in particular, mobile phones. It should be noted that the decisions of the heads of Penitentiary Institutions were not reasoned in terms of the period of transfer to the disciplinary cell. They did not provide justifications for the period of application of the penalty.

In this respect, the decisions are limited to the description of the violations by convicted persons without justifying the period of the sentence to be imposed, which is worrying and may lead to a differentiated approach in similar situations.

Pursuant to paragraph 217 of Annex to the RA Government Decree No. 1543-Ա[168] of 3 August 2006, *when choosing the type of disciplinary penalty, the conditions of the violation committed, the personality of a detained or a convicted person, the behaviour before committing the violation and the general description are taken into account. The penalty should be commensurate with the severity and nature of the violation. The penalty should be fair applied only on the basis of a decision made as a result of relevant investigations.*

In connection with the abovementioned, it should be noted that according to Rule 56.1 of the European Prison Rules, *disciplinary penalties should be applied as an extreme measure, and according to Rule 60.2, the severity of any penalty should be proportionate to the offense committed*[169].

This issue was also addressed by the CPT, which stressed that *every case of transfer of a person to a disciplinary cell must be in accordance with the principles of proportionality, legality, and must be properly registered without discrimination.* On the principle of proportionality, the CPT has stated *that any restriction on the rights of a person deprived of their liberty must be related to the harm done to them, and the longer the sentence is imposed on them, the more justified it must be*[170].

Given the conditions of the most severe disciplinary penalties imposed on persons deprived of their liberty and their possible negative consequences, it is necessary to apply the transfer to the disciplinary cell in extreme cases, to exclude any differentiated approach in similar situations,

It is also necessary to address the issue of disciplinary action by persons deprived of their liberty for acts endangering their own health or life. According to the current legal regulations of the Republic of Armenia, a disciplinary penalty may be imposed on arrestees or detainees in case of actions endangering their own health or life. Thus, Article 14 of the RA Law ‘’On Detention of Arrestees and Detainees’’ defines **the responsibilities of arrestees and detainees, Part 1 of which stipulates that the latter** *must not* **commit** *acts endangering the health or life of themselves or other persons.* Article 35 of the same law stipulates *the application of a penalty to a detainee, including transfer to a disciplinary cell, for non-performance or improper performance of duties.*

It should be noted that cases of disciplinary penalties with regard to detainees for acts endangering their own health or life were registered in 2019, and in connection with an incident during a visit to ‘’Abovyan’’ Penitentiary Institution (the detainee was taken to a punishment cell for swallowing nails).

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[168] RA Government Decree No. 1543-Ա "On Approval of the Internal Regulations of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia on Detention Facilities and Correctional Institutions" of 3 August 2006.

[169] See: European Prison Rules of the Committee of Ministers of the Council of Europe, revised on 01.07.2020 at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016809ee581 webpage, as of 31.03.2021.

[170] See: the 21st General Report of the CPT from 1 August 2010 to 31 July 2011 at https://rm.coe.int/1680696a88 webpage, as of 31.03. 2021, paragraph 55.

The Human Rights Defender initiated a discussion procedure on their own initiative, as a result of which a decision was made on the violation of human rights[171].

At the same time, the Human Rights Defender stated that the imposition of a disciplinary penalty on a person deprived of liberty for self-injury or suicide attempt is not legal. The Human Rights Defender emphasized that self-injury is a psychological issue, it should be approached exclusively from a medical point of view and not from a punitive point of view.

There are also a number of international standards on this issue. Thus, according to Article 57.1 of the Committee on European Rules of the Committee of Ministers of the Council of Europe, *conduct that poses a potential threat to proper order, security or safety may be considered a disciplinary violation*[172].

The CPT also referred to the inadmissibility of imposing a disciplinary penalty for self-injury by persons deprived of their liberty and the possibility of ensuring the right to necessary medical assistance. In this regard, the CPT, in its 2016 report on the visit to the Republic of Moldova, considered *it problematic that self-injury is considered a disciplinary violation*; The CPT noted that *the problems caused by the self-injury and the circumstances are of a psychological and psychiatric nature and they should be approached from a medical and non-punitive point of view. In this context, all cases of self-injury should be immediately assessed by medical-social-psychological staff to determine the extent of the injuries and the psychological state of the person*[173].

In its 2019 report on its visit to Romania, the CPT expressed serious concerns about Article 100 of Romanian Law 254/2013, according to which self-injury is considered a disciplinary violation. The CPT noted that *during the visit, they met many persons deprived of liberty who had been subjected to disciplinary penalty for self-injury or even attempted suicide. Many of those subjected to disciplinary penalty needed psychological, even psychiatric, support.* **Such an approach was considered completely unacceptable by the CPT.** *The CPT proposed that the Romanian authorities exclude disciplinary penalties with regard to persons deprived of their liberty for attempted suicide and made appropriate legislative amendments*[174].

The Ministry of Justice of the Republic of Armenia has stated in connection with the penalties imposed on persons deprived of their liberty for endangering their own health or life, that for violation of

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[171] See: https://www.ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpage, as of 31.03.2021, pages 304-308.

[172] See: the European Prison Rules of the Committee of Ministers of the Council of Europe, revised on 01.07.2020 at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016809ee581 webpage, as of 31.03.2021.

[173] See: https://rm.coe.int/16806975d webpage, as of 31.03.2021, paragraph 137.

[174] See: https://rm.coe.int/16806975da webpage, as of 31.03.2021, paragraph 131.

paragraph 5 of part 1 of Article 14 of the RA Law ‘’On Detention of Arrestees and Detainees’’no penalties has been imposed in 2020.

It should be noted that in 2020, the package of draft decisions of the RA Government ‘’On Making Amendments to the Law ‘’On Detention of Arrestees and Detainees’’, to the Laws ‘’On Making Amendments and Additions to the Penitentiary Code of the Republic of Armenia’’, "On Making Amendments and Additions to the RA Government Decree No. 1543-Ն of 3 August 2006" and "On Making Amendments and Additions to the RA Government Decree No. 825-Ն 26 of May 2006" was submitted to the opinion of the Human Rights Defender, which envisages to edit paragraph 5 of part 1 of Article 14 of the Law ‘’On Detention of Arrestees and Detainees and **envisage as an obligation of arrestees and detainees to only not committing acts that endanger the health or life of other persons.**

Despite the abovementioned, this provision is still in force, and the imposition of penalties on persons deprived of their liberty on this basis is not ruled out. **Thus, paragraph 5 of part 1 of Article 14 of the RA Law ‘’On Detention of Arrestees and Detainees’’ is subject to immediate amendment in line with the international human rights commitments undertaken by the Republic of Armenia.**

Taking into account the abovementioned issues, it is necessary to:

- ✓ ***Review the system of penalties and incentives, introduce a flexible and effective mechanism for their application;***
- ✓ ***Carry out a proper assessment of the behaviour of persons deprived of their liberty, apply incentives in cases of positive behaviour, taking into account the range of re-socialization measures offered in the Penitentiary Institution;***
- ✓ ***Carry out proper control over the observance of the requirements of Article 98 of the RA Penitentiary Code, that is, apply the restrictions on the rights of a person deprived of liberty transferred to a disciplinary cell only by a reasoned decision of the head of the Penitentiary Institution;***
- ✓ ***Eliminate the differentiated application of disciplinary penalties in similar cases, ensuring a uniform policy for the application of penalties;***
- ✓ ***In each case, make a reasoned decision to transfer the person deprived of liberty to the disciplinary cell, indicating separately the justification of the period of keeping the person in the punishment cell;***
- ✓ ***Take the necessary steps to make urgent amendments to the RA Law ‘’On Detention of Arrestees and Detainees’’, excluding the application of disciplinary penalties in case of actions endangering their own health or life.***

4.16. Issues related to the use of physical force, special means or weapons by Penitentiary Officers

During the monitoring visits carried out in 2020, the cases of the use of physical force, special means or weapons by the officers in Penitentiary Institutions and related issues were studied.

It is obvious that in practice Penitentiary Institutions may have to use physical force or special means in the performance of their official duties. The key in this regard is that the use of force, special means or weapons must be legal, absolutely necessary in specific circumstances, strictly proportionate to the existing danger.

In this regard, it is first necessary to refer to the regulations of the domestic legislation on the issue under discussion.

Thus, the first part of Article 47 of the RA Law ''On Penitentiary Service'' stipulates that *in cases of non-fulfillment or obstruction of the fulfillment of the legal requirements of the penitentiary officer, the latter has the right to use physical force, special means and weapons.* Article 49 of the same Law defines the grounds and conditions for the use of civil weapons or special means in Penitentiary Institutions, stating that *as a civilian weapon can be used a lightning rod, an electric shock device, as well as a gas pistol*.

Rubber truncheons, handcuffs, foot cuffs, light and sound media distracting attention, barrier destroyers, water cannons or armored vehicles, service dogs, and any other means that do not harm human health can be used as special means.

According to paragraph 92 of the Internal Regulation of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia approved by the Annex of the RA Government Decree No.1543-N of 3 August 2006 "On Approval of the Internal Regulations of Places of Detention and Correctional Institutions of the Ministry of Justice of the Republic of Armenia", *personal search of a detaineda or a convicted person or search of a cell or barrack, as well as, in case of discovery of items subject to confiscation during the inspection of items, a report on the discovery and confiscation of prohibited items shall be complied.*

Paragraph 53 of the Order No. 194-Ա "On Approving the Order of Activities of the Structural Subdivisions of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia" of the Minister of Justice of the Republic of Armenia of 21 November 2011 stipulates *that search of cells, barracks, hospital rooms and other buildings can be planned and unplanned. The planned searches are carried out according to the schedule approved by the Head of the Institution, and the unplanned searches are carried out on the basis of the information received on the presence of prohibited items in the cell, barrack,hospital room or other buildings.*

Paragraph 120 of the same Order stipulates that *in case of use of physical force, special means or weapons with regard to a detained or a convicted person, a relevant report shall be drawn up by the relevant officer, to which a medical certificate on the results of the examination of the person shall be attached must be presented to the Head of the Institution*.

In response to questions from the Human Rights Defender about the frequency of planned or unplanned searches of cells in Penitentiary Institutions and the difference between them, the Ministry of Justice provided information that the responsible duty officers of the Penitentiary Institution were not present. Then, for the purpose of organizing the instruction, they get acquainted with the order of the institution on the organization of day security, which includes the numbers of cells, residential barracks , the names of the buildings in which the planned searches are to be carried out.

The Ministry of Justice noted that the searches of all the cells, barracks, buildings and (or) areas carried out in the Penitentiary Institutions, which were carried out outside the schedule approved by the Head of the Penitentiary Institution, were, in fact, unplanned in terms of content.

In this regard, it should be noted that the detailed planning of the planned searches, as well as the detailed analysis of the whole process with the directorate and the results of its implementation. can play a key role in identifying gaps and mistakes and developing steps to prevent them in the future.

According to the information provided by the Ministry of Justice of the Republic of Armenia, in 2020, 47 special measures were applied to 47 persons deprived of liberty in 7 out of 12 Penitentiary Institutions (below are the special measures applied in 2020, by types and Penitentiary Institutions).

Penitentiary institution	**Special Means**		
	Physical Force	*Handcuffs*	*Rubber Truncheons*
‘’Yerevan-Kentron’’	2	2	2
‘’Artik’’	5	1	1
‘’Kosh’’	1	1	1
‘’Armavir’’	29	2	-
‘’Nubarashen’’	3	2	-
‘’Hospital for the Convicted’’	4	1	-

‘’Vardashen’’	1	1	-
TOTAL	***45***	***10***	***4***

It should be noted that in 2020, the use of special means in Penitentiary Institutions became the subject of special study during the visit to ‘’Yerevan-Kentron’’ penitentiary institution. As a result of the study of the materials prepared in the penitentiary institution to solve the issue of the compiled report on the use of force special means and initiating a criminal case, it was stated that:

- In 2020, two officers of the security department of the ‘’Yerevan-Kentron’’ penitentiary institution Two officers of the special purpose department of the penitentiary service searched one of the cells of the institution.
- According to the report of the security officer of ‘’Yerevan-Kentron’’ penitentiary institution, two convicted persons kept in the cell during the search *"showed disobedience and utter Insults of the sexual nature to the penitentiary officers conducting the search"*.
- The officers explained to the convicted persons *"the inadmissibility of their actions"*, but *"the explanatory work carried out did not yield a positive result"*.
- Disobeying the *"legal demands"* of the penitentiary officers to stop the illegal activities, the convicted persons continued *to "obstruct the search, utter sexual insults to the penitentiary officers, showing disobedience"*.
- *"In order to curb the illegal actions of the latter, physical force was used with regard to them, that is, hand-to-hand tricks, as well as special means, that is, rubber truncheons and handcuffs";*
- Prohibited items and subjects were not found as a result of the search of the cell.
- Materials were prepared on the basis of the report of the officer of the security department of "Yerevan-Kentron" penitentiary institution.
- The deputy head of the institution took explanations from the two officers of the security department of the institution, the content of which completely repeated the content of the report of the latter.
- A forensic examination was appointed (by the decision of the deputy head of the institution with the approval of the head).
- The forensic examination was not performed because the convicted persons refused to undergo an examination. (noting about this on the copy of the decision to appoint an examination and signing).
- The convicted persons refused to give an explanation, in connection with which a protocol was drawn up.
- The Senior Prosecutor of the Kentron and Nork-Marash Administrative District made a decision based on the materials prepared in "Yerevan-Kentron" Penitentiary Institution regarding the

commission of criminal offenses under Articles 308, 309 and 309.1 of the RA Criminal Code on non-prosecution on the grounds of lack of guilt in the act.

- The decision completely repeated the content of the report of the officer of the security department of "Yerevan-Kentron" penitentiary institution and the explanations given by the officers later.

During the visit, while having the conversation with the officers of the security department of the Penitentiary Institution, it was noted that there are no internal procedures for planning and conducting searches, and the officers rely only on the provisions of the RA Law ‘’On Penitentiary Service’’.

The RA Justice has not provided information on internal guidelines for planning and conducting searches in Penitentiary Institutions.

In this regard, it should be noted that the CPT described the main criteria for the use of force in paragraphs 53-55 of its 2nd General Report on its activities, which were later revised and improved in the reports of visits to individual states[175].

According to the CPT criteria.

- ➢ Pre-planned interventions (including searches) should be videotaped.
- ➢ Injuries received by persons deprived of their liberty and penitentiary officers should be properly recorded.
- ➢ Immediately after each intervention, all staff involved and all the members of the directorate must make a detailed report.
- ➢ When performing the function of intervention, all officers participating in it must wear clearly visible personal identification marks;
- ➢ In order to avoid all this, it is necessary for the security personnel to be properly trained on the topics of relieving tension through the use of force and reporting on them.

The analysis of the abovementioned criteria and the combination with the case under discussion, raises a number of key issues.

Thus, in terms of the proportionality of the use of force during the search, its improper reporting is a matter of concern. In particular, a study of 29 reports on the use of special means in 7 Penitentiary Institutions showed that the reports were typical, often using the same wording, and at the same time, highly evaluative and undisclosed expressions, such as "showed disobedience". *"Showed aggressive and impudent behaviour", "gave unaddressed insults", "slandered", "brought illegal excuses", "did not comply with legal requirements", "obstructed the search", "explained the inadmissibility of actions",*

[175] See: https://rm.coe.int/1680696a3f webpage, as of 31.03.2021.

"was given "enough time to stop the operation", "did not do the right thing", "proportional force was used", "sports (combat, hand-to-hand) tricks were used", etc.

Such expressions are very vague, it remains unknown what these actions were. From them it is impossible to understand, for example, what specific trick of hand-to-hand combat was used with regard to the convicted person, how proportionate it was in the described situation, how many minutes or seconds "sufficient time" is assessed, what words, expressions the term "insult" includes, etc.

In the same way, there is no proper description of the force used, the expressions "sports (combat, hand-to-hand tricks) were used" can not meet the requirement of certainty.

These circumstances clearly indicate that Penitentiary Institutions are not properly trained in the criteria for reporting in detail on the use of force.

It should be noted that in the case studied in ‘’Yerevan-Kentron’’ penitentiary institution, the absence of explanations about the proportionality of the use of force, the absence of explanations of the two special officers of the Penitentiary Service and the convicted persons, as well as the absence if forensic medical examination leave unresolved doubts about the legality and proportionality of the use of force.

It is also a matter of concern that in some cases, when a decision was made not to initiate a criminal case on the basis of the prepared materials, an official investigation is not carried out. In this regard, it should be emphasized that t**he lack of features of a criminal act should not exclude the need for official investigations, internal discussions,** as they may reveal a lack of knowledge, the need for appropriate training.

The Ministry of Justice of the Republic of Armenia has provided information on the issue of penitentiary officers wearing visible personal identification marks or insignia during the searches, while the penitentiary system officers wear a uniform, the description thereof is defined by the RA Government Decree No. 776-L "On the Description of the Uniform of Penitentiary Officers including the Uniform, the Procedure, the Terms and Conditions for Providing and Wearing it" of 20 June 2019. According to the Ministry of Justice, the abovementioned decision does not provide personal identification marks or insignia for the uniforms of Penitentiary Institutions. This is problematic in terms of identifying the latter and contradicts the CPT standards.

During the monitoring visit, the special means available in ‘’Yerevan-Kentron’’ penitentiary institution and civil weapons were examined. These are truncheon, gas guns (pepper spray) and electric shock device.

In recent years, in many Council of Europe member states, the police have used various types of electrical (spark) firearms for official use to restrain persons deprived of their liberty perpetrating violence.

These weapons emit electricity either from a close distance or from a certain distance, they are intended to be less lethal than firearms, in particular in line with the principle of gradually increasing the number of weapons used in dangerous situations.

Issues related to this type of special means were discussed in the 20th General Report[176] on CPT Activities. The CPT's position on the use of such weapons can be summarized as follows:

- ➢ Different types of electrical (spark) firearms can cause severe and their use can be abused. The criteria for their application should be provided by law and detailed in the by-laws.
- ➢ When applying them, the principles of necessity, proportionality, warning in advance (when possible) the principles of caution should be observed.
- ➢ The officials to whom they are assigned need to be adequately trained to be able to use them properly.
- ➢ If electrical (spark) firearms are used that can emit debris, the applicable standards should be comparable to the firearms standards.
- ➢ Their use should be limited to situations where there is a real and imminent threat to life or risk of serious bodily injury, when less coercive methods have already been used have not worked or are practically impossible to use. Under no circumstances should they be used solely to enforce an order.
- ➢ In closed areas, such as cells, they can only be used in very exceptional circumstances.
- ➢ Electrical (spark) firearms weapons must be equipped with appropriate devices, such as memory card, that can record information, in particular, the exact time, duration, , charge intensity, as well as they must have the ability to record video.
- ➢ Anyone who has been exposed to an electric (spark) firearm should be examined by a doctor in all cases and, if necessary, examined at a medical institution.
- ➢ A discussion should be organized after each application of the firearms, as well as a detailed report on the incident.

In the 2014 report on its visit to Georgia, the CPT stressed that *the use of electrical (spark) firearms (electroshock) may be justified in extreme cases where all other measures have failed, when there is a real, immediate danger to life. : Moreover, specially selected and trained* Penitentiary Institutions *should only have the right to use such devices, and all necessary precautions should be taken when using them*[177].

[176] See: https://rm.coe.int/1680696a87 webpage, as of 31.03.2021.

[177] See: https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680696 1f8 webpage, as of 31.03.2021, paragraph 11.

In response to inquiries from the Human Rights Defender about the number of electroshock devices and the availability of memory cards, the Ministry of Justice reported that there were a total of 29 electroshock devices in all 12 Penitentiary Institutions that were not equipped with memory media.

It is very worrisome that in the presence of electric shock devices in Penitentiary Institutions, the security officers were not informed about the criteria for their use.

Although no cases of the use of civil weapons were reported in Penitentiary Institutions in 2020, the need for appropriate training is of key importance.

According to the information provided by the Ministry of Justice of the Republic of Armenia, in 2020 some trainings were provided for Penitentiary Institutions (including tricks of using special means - planned and unplanned searches), but the problems found as a result of monitoring show that the latter are not properly informed about physical force and about a number of issues related to the use of special means or weapons.

Therefore, taking into account the abovementioned, it is necessary to:

- ✓ ***Develop detailed guidelines for the use of force, special means and weapons;***
- ✓ ***Properly plan all activities that involve the use of force, special means or weapons, including planned searches;***
- ✓ ***Ensure that the Penitentiary Institutions participating in the planned searches wear visible personal identification marks and events are videotaped;***
- ✓ ***Analyze thoroughly each case of use of force, special means or weapons by the security department and the management of the Penitentiary Institution, regardless of the fact that materials are being prepared for initiating a criminal case;***
- ✓ ***Prepare a detailed report after each case of use of force, special means or weapons by all the officers and members of the directorate involved in it;***
- ✓ ***Properly record the bodily injuries received by persons deprived of their liberty and penitentiary officers;***
- ✓ ***Develop clear criteria for the use of electric shock devices by organizing appropriate training for penitentiary staff in the security departments in this regard;***
- ✓ ***Organize appropriate trainings for penitentiary officers of the security departments and trainings on relieving tension through speech, use of force, special means and use of weapons and the themes about reporting.***

4.17. Prevention of suicide and self-injury in Penitentiary Institutions

The European Court of Human Rights has stated in its legal position on the right to life that the State is responsible for the deaths of persons detained, convicted or otherwise subjected to the jurisdiction of the State. The competent state authorities are obliged to take all measures to prevent them, as well as for a comprehensive, complete and objective investigation of the death cases.

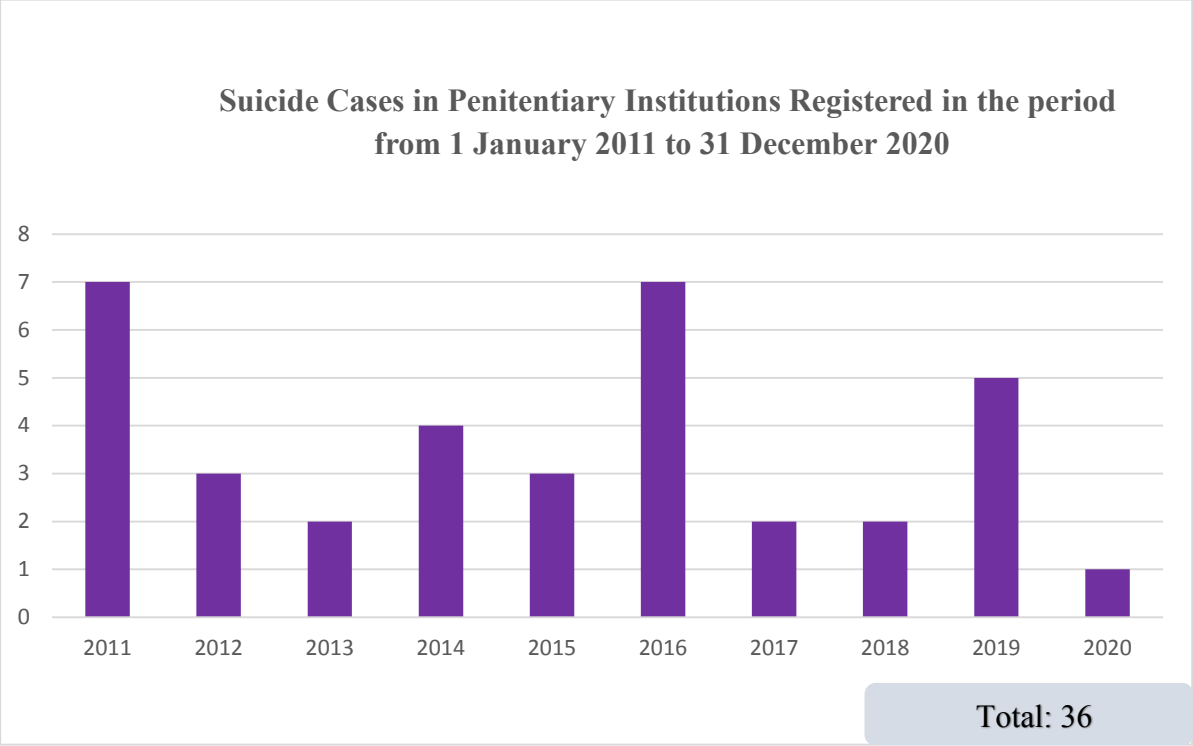
According to the information provided by the RA Ministry of Justice, in the period from 1 January to 31 December, 2020, 5 deaths were registered in Penitentiary Institutions, 1 of which was suicide (''Armavir'' penitentiary institution). Two of the deaths were reported in civil medical institutions.

According to the information provided, the main causes of deaths in Penitentiary Institutions were various diseases (kidney failure, poly organ failure, HIV, cirrhosis of the liver, etc.), followed by the deterioration of the health status of persons.

It should be noted that t**he mortality rate in Penitentiary Institutions, including suicides, has significantly decreased compared to the previous three years.** In 2017, 17 deaths (2 suicides) were registered, in 2018, 18 deaths (2 suicides), and in 2019, 21 deaths (5 suicides). In this regard, it should be noted that in 2020, compared to previous years, the number of persons held in Penitentiary Institutions has decreased.

The suicide rate in 2020 is the lowest in 10 years. A total of 36 suicides were registered in Penitentiary Institutions between 2011 and 2020.

Below are the statistical data of suicide cases by years.



Despite the declining number of suicides, systematic efforts by the competent authorities to identify and prevent the causes and conditions of suicide are still insufficient.

According to the explanations provided by the RA Prosecutor General's Office on the deaths registered in Penitentiary Institutions in 2020, including suicides, a criminal case has been initiated in the Vagharshapat Investigation Division of the RA Investigative Committee in accordance with part 1 of Article 110 of the RA Criminal Code (forcing a person to commit suicide or attempt of suicide indirect intentionaly or negligently, through threat, ill-treatment or degrading personal dignity), in connection with the suicide that took place on the 30th of May, 2020 in the ‘’Armavir’’ Penitentiary Institution, the preliminary investigation of which continues.

It should be noted that in connection with the death of the mentioned suicide in the "Hospital for the Convicted" penitentiary institution on the 7th of January, 2020, the Human Rights Defender's Office initiated discussions, within the framework of which relevant letters were addressed to the RA Ministry of Justice and the RA Prosecutor General's Office. According to the information received from the Prosecutor's Office, a criminal case has been initiated in both of the abovementioned cases, forensic medical examinations have been appointed, the conclusions of which have not been received yet.

The Ministry of Justice stated in its official explanations that the person who committed suicide was a foreigner (a citizen of the Republic of Korea), and committed suicide in a quarantine cell three days after being admitted to the Penitentiary Institution by hanging from a window sill with a sheet.

Preliminary medical examination of persons deprived of their liberty upon admission to a Penitentiary Institution is important in preventing suicide.

Thus, according to paragraph 9 of the Annex to the RA Government Decree No. 1543-Ն of 3 August 2006, p*ersons deprived of liberty undergo a preliminary medical examination in the quarantine department upon admission to the Penitentiary Institution, which is important in preventing suicides.*

According to the CPT's criteria, *undergoing a medical examination from admission to a place of deprivation of liberty, and working to adapt to the conditions of a correctional institution should play a role in preventing suicide. A regular medical examination may reveal some of the persons deprived of their liberty at such a risk; Those at risk of suicide should be placed under special supervision for as long as necessary*[178].

According to paragraph 22 (7) and paragraph 26 (1) of Annex 1 to the RA Minister of Justice Decree No. 279-Ն[179] of 13 July 2016, *social, psychological and legal assistance will be provided to all persons deprived of their liberty from the moment of admission to a Penitentiary Institution.*

However, it should be noted that in the absence of the relevant legal framework, there are no effective mechanisms for practical application. **Thus, Penitentiary Institutions do not have special mechanisms for early detection of persons deprived of their liberty with borderline states or tendencies for self-injury or other problems, and for the prevention of such cases.**

In practice, adequate studies and analyzes are not carried out in relation to deaths to identify their causes, and no concrete steps have been taken by the competent state authorities to introduce the necessary legal-practical structures in line with international standards for the prevention of such cases.

As stated, during the monitoring visits to the quarantine department, the representatives of the SPLA department meet at least once, the main purpose of which is to get acquainted with the internal regulations of the correctional institution.

The Human Rights Defender reported that appropriate psychological activities with persons deprived of their liberty is particularly important in the early stages of a person's admission in the Penitentiary Institution (when the person is in the institution's quarantine department). Psychological counsultations are important for a person being in a penitentiary institution for the

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[178] See: http://static.echr.am//pdf/02d62f9426f1725ecb9525f656d0e6b3.pdf webpage, as of 31.03.2021, page 65, paragraph 58.3

[179] The Order No. 279 Ն "On Approving the Order of Activities of Structural Subdivisions Carrying out Social, Psychological and Legal Activities with Detained and Convicted Persons and on Recognizing Invalid the Order No. 279 of the Minister of Justice of the Republic of Armenia of 30 May 2008" of the Minister of Justice of the Republic of Armenia of 13 July 2016.

first time to adapt to the conditions of the institution, assesses their risk of committing suicide, and, if necessary, take appropriate preventive measures.

It should be noted that the CPT's concern that *life-threatening measures (window bars, broken glass, belts, ties, etc.) should not be made available to persons*[180] *at risk of suicide* is still unresolved. which was also recorded during visits to Penitentiary Institutions in previous years[181].

In this connection, the RA Ministry of Justice submitted to the Human Rights Defender's opinion a draft law envisaging amendments to the RA Government Decree No.1543-N of 3 August, 2006. Welcoming the mentioned legislative initiative, the considerations of the Human Rights Defender's Office on the draft were submitted to the Ministry of Justice. It was especially emphasized that it is necessary to develop a clear strategy for the prevention of suicides of persons deprived of their liberty in Penitentiary Institutions, to implement a comprehensive programme of measures, within the framework of which, along with new and other measures, make legislative changes to exclude access to the means dangerous for life for those at risk of suicide. At the same time, the issue of access to means dangerous for life should be addressed not by the deterioration of the legal status of persons already at risk of suicide, by envisaging liability (for example, penalties), but by a separate, independent mechanism that will provide special procedures for responsible employees.

The urgency of this issue is evidenced by the abovementioned case of suicide, as well as the information provided on cases of suicide attempts in Penitentiary Institutions. According to statistics provided by the RA Ministry of Justice, 31 suicides were registered in Penitentiary Institutions in 2020, in 30 of which persons deprived of their liberty attempted suicide by hanging themselves, mainly by hanging from a cell window with a rope, sheet or power cord. In the other case, the person deprived of liberty tried to commit suicide by jumping over the second floor partition of the Penitentiary Institution. It is noteworthy that in most cases, those who attempted suicide were in the disciplinary or quarantine cell of the institution.

Below are the cases of suicide attempts committed by persons deprived of liberty in 2020, according to Penitentiary Institutions.

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[180] See: the 3rd General Report on the CPT, which covers the period from 1 January to 31 December 1992 at https://rm.coe.int/1680696a40 webpage, as of 31.03.2021 paragraph 59.

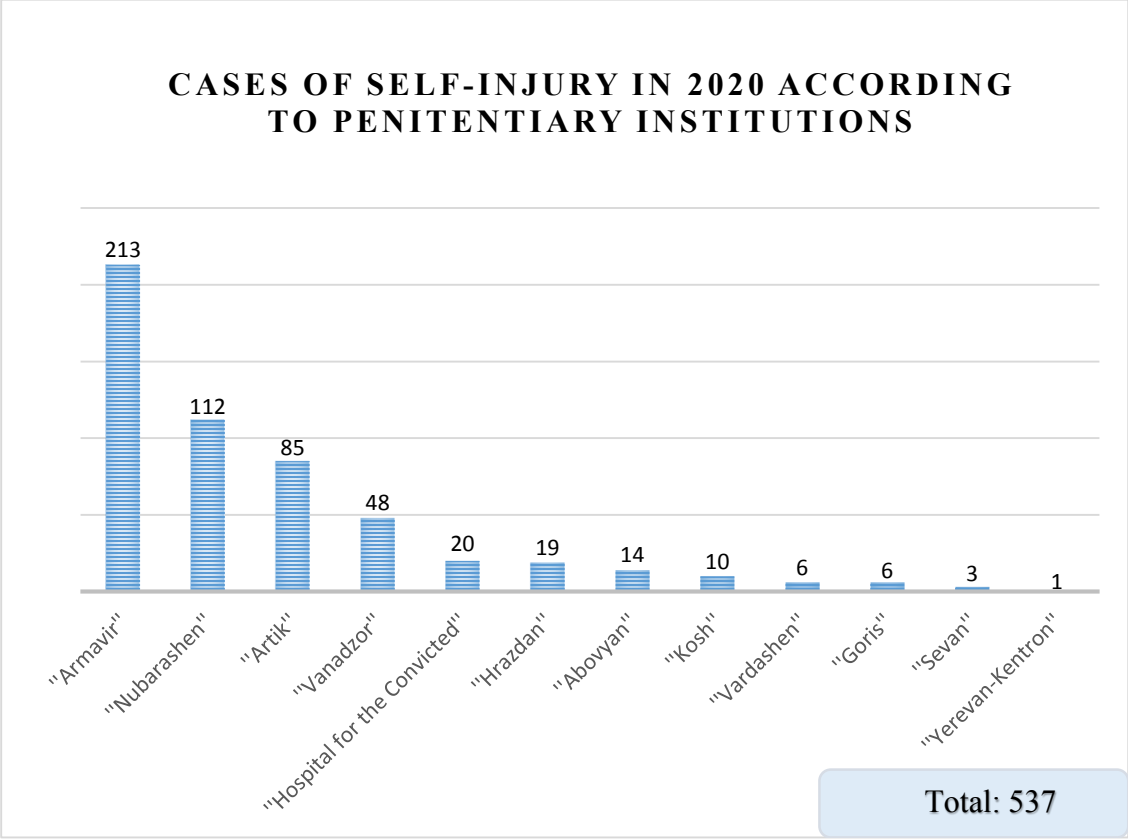
[181] See: https://www.ombuds.am/images/files/107efea7ef699b67309a61ffdf8d0f1e.pdf , https://www.ombuds.am/images/files/59297c7b4276c9dbf19cd1f1cfcd92a8.pdf , https://www.ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf and https://www.ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpages, as of 31.03.2021, pages 52-59, 90-95, 260-265 and 308-316.

Penitentiary Institution	Number of Cases
‘’Armavir’’	12
‘’Nubarashen’’	8
‘’Artik’’	3
‘’Yerevan-Kentron’’	2
‘’Hospital for the Convicted’’	2
‘’Kosh’’	2
‘’Vanadzor’’	1
‘’Goris’’	1
TOTAL	***31***

Regarding the number of self-injuries committed by persons deprived of their liberty in 2020, it should be noted that although the number of self-injuries decreased to some extent compared to the previous year (from 604 to 537), the number of persons committed self-injury increased (from 182 to 244).

According to the information provided by the RA Ministry of Justice, in the period from 1 January to 31 December, 2020, 537 cases of self-injury were registered in Penitentiary Institutions, which were committed by 244 persons.

The statistics on detained and convicted persons who committed self-injury and according to separate Penitentiary Institutions, are presented below.



It is noteworthy that the number of self-injuries in the "Armavir" penitentiary institution has increased by 87% as compared to 2019 (114 cases of self-injuries were registered in 2019). This is extremely problematic and it is conditioned, among other things, by the vacancy of a psychologist in the Penitentiary Institution. This fact precludes the possibility of effective psychological work, which is of primary importance for the prevention of self-injury.

According to the explanations provided by the Ministry of Justice of the Republic of Armenia and by the Prosecutor General's Office of the Republic of Armenia, the self-injury was mainly done by scratching or cutting with the use of a disposable blade or lighter or swallowing various objects. The reasons for the self-injury inflicted by the persons deprived of their liberty were mainly related to their criminal cases, health, nervous problems or transfer to another Penitentiary Institution or cell.

According to the information received, materials were compiled in each case of self-injury, an investigation was carried out, as well as socio-psychological work was carried out, in particular, psychological work was carried out by the psychologist of the relevant Penitentiary Institution, as a result of which a psychological conclusion was given on further predictions of possible self-injury behaviour. Explanatory work was carried out to prevent further attempts at self-injury by the person.

Despite the explanations provided, it should be noted that in the conditions of insufficient number of psychologists in Penitentiary Institutions, their staffing or their absence, it becomes impossible to carry out consistent, in-depth psychological work, at the same time, no special psychological measures for dynamic control of persons at risk are implemented[182].

As a result of the monitoring, it was found that the methodology of psychological work with persons with at risk behaviour does not include special procedures or psychological programmes. The main purpose of psychological work is to reconstruct the negative attitudes of persons deprived of their liberty, which is almost impossible to accomplish with a one-time conversation; it presupposes long-term psychotherapeutic work.

During the monitoring visits during 2020, problems related to negative tendencies in Penitentiary Institutions, including the tendency to self-injury, were continuously registered. It should be noted that their detection is carried out on the basis of the numerical index of deviations already observed in the behaviour of a person deprived of liberty, relevant previous records in the personal file and disciplinary penalties, which is an indicator of very low significance, as it does not rely on psychological predisposition and motivation on detection and has the nature of a mechanical recording. It was also noted that at the first moment of entering the Penitentiary Institution, a thorough preliminary assessment of the inclinations of the person deprived of liberty for the mentioned reasons is not made, on the basis of which it would be possible to carry out preventive social-psychological work.

Thus, during the visit to ‘’Yerevan-Kentron’’ penitentiary institution, the study of the register of ‘’Registration of Detained and Convicted Persons with Negative Addictions" revealed that in 2020 one of the detainees held in the institution was registered as having a tendency to self-injury. An examination of the medical record revealed that the detainee had attempted to commit suicide by hanging while being in the Penitentiary Institution. According to the data in the medical card, at the time of the examination the person was "excited, tense", advice was given, a psychiatrist was consulted. According to the psychiatrist, the person attempted suicide because they thought that no one wanted to help them, as well, they wanted to attract attention.

It should be noted that the detainee's medical card did not contain information on other cases of self-injury while in the Penitentiary Institution. No such information was provided by the medical personnel.

In this regard, it should be noted that according to paragraph 47 (2) of Annex 1 to the Order No. 279-Ա of the Minister of Justice of the Republic of Armenia of 13 July 2016, *as a basis for accounting for a*

[182] See: Subchapter 4.13 in Chapter 4 of this report.

tendency to self-injury are records of ***two or more self-injury attempt*** *or fact in a personal file during a year psychological conclusion*[183].

Therefore, the question arises as to why the detainee was registered as a person tend to commit self-injury, if they attempted suicide only once during their detention in the Penitentiary Institution. At the same time, the question arises, whether the motives of the person for taking such a step were taken into account (according to the psychiatrist, the latter wanted to attract attention in this way). It is noteworthy that the defender was not involved in the criminal case of the detainee, and the possibility of making telephone calls was limited by the body conducting the proceedings.

At the same time, it should be noted that in the register of ‘’Registration of Detained and Convicted Persons with Negative Addictions" studied during the visit, there was no entry in front of the records about the abovementioned detainee, as well other persons deprived of their liberty in the column entitled "Summary of the Work Done to Reduce Addictions".

The abovementioned statement allows us to conclude that the processes of registration and deregistration of a person are of a formal nature, not based on professional assessment. It should be noted that this problem is systemic, it exists in all Penitentiary Institutions.

In response to the Human Rights Defender's inquiry on the causes of deaths registered in Penitentiary Institutions, as well as the systemic measures taken to prevent them, the Ministry of Justice of the Republic of Armenia provided clarifications that it is planned to increase the quality of psychological services provided to persons deprived of their liberty, to introduce programmes for assessing the mental health of the latter upon admission to the Penitentiary Institution, to prevent its deterioration, as well as to carry out screening examinations in connection with them. According to the Ministry, within the framework of the "Strengthening Protection of Healthcare and Human Rights in Prisons of Armenia" programme implemented by the Ministry of Justice of the Republic of Armenia and European Council, it is developed and approved by the Order No. 513-Լ ‘’On 2022 Strategy of Prevention of Suicides and Self-Injuries in Penitentiary Institutions and Action Plan for 2021-2022 "of the Minister of Justice of the Republic of Armenia of 10 December 2020, the programme. Within the framework of the measures defined by the programme, it is envisaged to develop and input of a tool for statistics on suicides, self-injury cases, including attempts of suicides in Penitentiary Institutions, to train penitentiary officers for proper investigation of such cases, to assess the state of mental health by medical and non- medical

[183] According to part 5 of Article 16 of the RA Law ‘’On Normative Legal Acts’’, *if the application of the norm mentioned in the normative legal act is conditioned by* ***commas*** *or conditions separated by "*and*" as well as by "or" link, then with* ***All conditions are required*** *for the application of this norm to the terms of conditions separated by* ***commas*** *or ‘’and’’ link.* According to part 6 of the same Article*, if the application of the norm mentioned in the normative legal act is conditioned by the conditions divided by separate points,* and *those points are not separated by a comma or by "*and*" or "or" links, then it is sufficient for the application of that norm the existence of at least one of the conditions, unless otherwise stated in the content of the given norm.* Clauses "a" and "b" of paragraph 47 (2) of Annex 1 to the Order No. 279-Ա of the Minister of Justice of the Republic of Armenia of 13 July 2016 are separated by a comma.

personnel. Development of detection of suicide and self-injury cases, evaluation and prevention guidelines.

Thus, in order to identify persons deprived of liberty at risk of death, including suicide, to ensure proper control over them, and to prevent suicides, it is necessary to:

- ✓ ***Provide individual counsultation to all persons deprived of their liberty upon admission to a penitentiary institution, as a result of which it will be possible to identify persons at risk of suicide, to place them cells or other places with conditions appropriate to their mental state and physical characteristics in, carrying out appropriate preventive work;***
- ✓ ***Develop methodological guidelines to increase the effectiveness of psychological services in Penitentiary Institutions;***
- ✓ ***Ensure access to psychiatric and psychological assistance to persons deprived of their liberty while in a Penitentiary Institution;***
- ✓ ***Provide a legislative opportunity to restrict access to the means dangerous for life (for example: rope, shoelaces, sheets, belt, cable, power cord, etc.) for persons deprived of liberty at risk of suicide and self-injury for a while;***
- ✓ ***Organize appropriate trainings for representatives of administrations PenitentiaryInstitutions to raise awareness of the signs of suicide risk for persons deprived of their liberty.***

4.18. Access to transport for communication with penitentiary institutions

One of the unresolved issues for years is the accessibility of transport for communication with Penitentiary Institutions, which was mentioned in the reports of the RA Human Rights Defender as the National Preventive Mechanism in 2016, 2017, 2018 and 2019[184].

This issue was raised by the Human Rights Defender on the basis of individual complaints. In particular, the applicants stated that due to the lack of transport communication to the ‘’Armavir’’ penitentiary

[184] See: https://www.ombuds.am/images/files/107efea7ef699b67309a61ffdf8d0f1e.pdf , https://www.ombuds.am/images/files/59297c7b4276c9dbf19cd1f1cfcd92a8.pdf , https://www.ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf and https://www.ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpages, as of 31.03.2021, pages 49-50, 80-82, 265-266 and 316-318.

institution [185], they had to walk more than 3.5 km to reach the Penitentiary Institution or use a taxi service, which requires additional funding.

The Ministry of Justice of the Republic of Armenia has provided information on the steps taken by the Government of the Republic of Armenia to ensure accessible, regular public transport routes for visitors of thee persons deprived of their liberty for paragraph 33 (2) of Annex 2 to the RA Government Decree No. 1717-Լ "On Approving Penitentiary Probation Strategy of the Republic of Armenia for 2019-2023, the Programme of Measures for its Implementation for 2019-2023, the Financial Evaluation of the Programme and the Formation of the Council Coordinating the Implementation of the Programme and the Procedure of the Organization of its Activities''of 28 November 2019 envisages implementation of steps to solve the transport accessibility problems of Penitentiary Institutions. accordingly, to ensure transport communication.

The Ministry of Justice of the Republic of Armenia informed that the implementation of the abovementioned paragraph 33 (2) is envisaged for 2020-2021, and a number of steps have been taken to fulfill it in 2020.

According to the Ministry of Justice, based on the information received from the Penitentiary Institutions, a corresponding study was carried out on the transport accessibility of all the institutions, according to the results of which there is no problem of access to public transport in the "Hospital for the Convicted", ''Yerevan-Kentron'', "Hrazdan", "Vanadzor", "Kosh", "Goris" and "Artik" Penitentiary Institutions,: The distance of public transport stops (including interregional, intra-city, intra-community) from the location of the abovementioned Penitentiary Institutions does not exceed 250 meters. The farthest stop from the location of the "Abovyan" penitentiary institution, the bus stop of the Yerevan-Abovyan intercity bus number 261, is about 400 meters away, and the Abovyan-Geghashen inter-community transport stop is about 50 meters away.

According to the information provided by the Ministry of Justice, priority is given to solving the problem of access to public transport in "Nubarashen", "Vardashen", "Armavir" and ''Sevan'' Penitentiary Institutions. In particular, "Nubarashen" and "Vardashen" Penitentiary Institutions are about 1 km away from the nearest public transport stop, and the distance from the ''Armavir'' penitentiary institution to the nearest bus stop is about 3.5 km. ''Sevan'' penitentiary institution is located about 500 meters from the Yerevan-Sevan highway, but there is no stop for public transport in this section.

The Ministry of Justice of the Republic of Armenia noted that taking into account the necessity of unimpeded exercise of the right of persons deprived of liberty to communicate with the outside world,

[185] ''Armavir'' Penitentiary Institution is located approximately 3.5 km from the Vagharshapat (Echmiadzin) -Maragara highway in the Armavir region (Chobankara).

they applied to the RA Ministry of Territorial Administration and Infrastructure to assist in resolving the issue.

According to the information received from the RA Ministry of Territorial Administration and Infrastructure, the issue of public transport accessibility of "Nubarashen", "Vardashen", "Armavir" and ‘’Sevan’’ Penitentiary Institutions is being discussed with the Mayor of Yerevan and the leaders of ‘’Sevan’’ and Armavir communities within the intra-community route network to provide the service. It was noted that after receiving the final position of the community leaders on the issue, in case of impossibility to resolve the issue within the intra-community route network, the issue of organizing the transport service of the abovementioned Penitentiary Institutions within the intra-regional or inter-regional route networks will be discussed.

The Ministry of Justice of the Republic of Armenia added that the steps taken to solve the problems of transport accessibility of Penitentiary Institutions, to ensure transport communication are of continuous nature, and follow-up work is being carried out in their direction.

The Human Rights Defender notes that the steps taken by the Ministry of Justice to resolve the issue are welcome, but the issue that has been raised for years remains unresolved, creating obstacles to the proper exercise of the right of persons deprived of their liberty to communicate with the outside world.

Thus, given the need to properly exercise the right of persons deprived of their liberty to communicate with the outside world, and the positive obligation of the State in this regard, the issue of transport accessibility to Penitentiary Institutions must be finally addressed by providing affordable regular public transport routes.

4.19. Working conditions of penitentiary institution staff

The protection of human rights is a comprehensive process, which implies guaranteeing the rights of all participants in that process, ensuring a dignified treatment of each of them, and establishing relations that guarantee mutual respect. One of the components of the principled approach is the state of ensuring the rights of the employees of the competent authorities, officers, whose activities are called to protect the rights of the members of the society.

This applies to penitentiary officers, their decent working conditions and social guarantees, including salaries. It should be noted that without the proper guarantees provided abovementioned, it is difficult to practically expect high, significant results in ensuring the rights of persons deprived of their liberty.

The opportunity for Penitentiary Institutions to work in favorable conditions is in the constant focus of the Human Rights Defender, given that the protection of human rights requires a systemic approach, including the protection of the rights of civil servants. The issues of guaranteeing the rights of penitentiary officers were raised in the *annual* reports[186] on the activities of the Human Rights Defender as the National Preventive Mechanism for 2017, 2018 and 2019.

Improving the working conditions of representatives of the administration of the penitentiary institution is one of the main elements in ensuring the normal functioning of Penitentiary Institutions. One of the preconditions for the improvement of working conditions is filling the vacancies in Penitentiary Institutions, which will reduce the employment rate of the representatives of the administration, will contribute to the proper fulfillment of their job responsibilities, and will increase their efficiency.

Issues related to the appropriate ratio of penitentiary staff, proper working conditions, and adequate social guarantees continued to be addressed by the Human Rights Defender as a target study of the National Preventive Mechanism in 2020. A number of issues were identified during monitoring visits.

As a result of monitoring, the number of staff in Penitentiary Institutions is constantly raised, taking into account the ratio of penitentiary staff to persons deprived of their liberty. At the time of the visit to the "Armavir" penitentiary institution, 19 out of 292 positions of the institution were vacant (20 positions were vacant as of 10 January 2021), including 2 out of 3 positions of the psychiatrist of the SPLA department, and problems of providing proper psychological services to the persons deprived of their liberty has arised due to this [187].

A study of the staff lists of penitentiary institutions revealed that out of 1972 positions in all penitentiary institutions, 74 had been vacant as of 10 January 2021, which is 3.75% of the total number. A large number of vacant positions were registered in the "Armavir" (20 out of 292), "Vanadzor" (14 out of 174) and "Goris" (9 out of 103) penitentiary institutions.

As of 10 January 2021, 8 employees of the ‘’Armavir’’ penitentiary institution were in direct contact with persons deprived of their liberty, and 115 employees were involved in the work of the Security Department, while 699 persons deprived of their liberty were kept in the Penitentiary Institution. In the "Vanadzor" penitentiary institution, 9 employees were involved in on-duty groups and were in direct contact with the persons deprived of liberty, and 42 employees were involved in the work of the Security Department, while 134 persons deprived of liberty were kept in the Penitentiary Institution.

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[186] See: https://ombuds.am/images/files/59297c7b4276c9dbf19cd1f1cfcd92a8.pdf , https://ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf and https://ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpages, as of 31.03.2021, pages 88-90, 266-270 and 318-324.

[187] See for more details: Subchapter 4.13 of this report.

Due to the lack of a sufficient number of inspectors, the requirements of paragraph 110 (3) of the Annex to the Decree No. 194-Ն "On Approving the Procedure of Activities of the Structural Subdivisions of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia" of the Minister of Justice of the Republic of Armenia of 11 November 2011, that *at least three officers (...) must be present when the cell is opened, and at least four officers at night,* are not preserved.

One of the main problems with staffing is low wages, insufficient working conditions and insufficiency of social guarantees.

In connection with the staffing of vacant positions of the penitentiary officers and with social guarantees, the Ministry of Justice of the Republic of Armenia provided information that due to the equalization of income tax, the salaries of 2183 penitentiary employees were increased in 2020, and due to the allowances provided in accordance with Annex 10.1 to the RA Government Decree No. 712-Ն of 3 July 2014, the salaries of 2062 penitentiary officers were increased by an average of 30%.

The Ministry of Justice also informed that 158 staff units were replenished as a result of the work carried out in 2020.

The steps taken by the Ministry of Justice of the Republic of Armenia to improve the social guarantees of Penitentiary Institutions are welcome, but it is necessary to carry out continuous work to improve the salaries of Penitentiary Institutions.

The issue of adequate remuneration, as well as the introduction of flexible encouragement mechanisms during monitoring visits is constantly raised by penitentiary officers in conversations with the Human Rights Defender's representatives. Therefore, these issues need to be reviewed in the penitentiary system and be systemic changed.

It should be noted that the improvement of the system of social guarantees for Penitentiary Institutions will have a direct positive impact in terms of ensuring the rights of persons deprived of their liberty in Penitentiary Institutions, inhuman treatment and prevention of corruption risks.

During the monitoring visits carried out in 2020, problems related to the working conditions of penitentiary officers were also revealed.

Thus, insufficient working conditions are created for the employees of the "Armavir" penitentiary institution. In particular, in the absence of the possibility of heating food and the absence of the food stores near the Penitentiary Institution, the employees bring food from home that does not need to be heated. There is also no staff canteen in the Penitentiary Institution.

At the time of the visit, the toilets for the staff of the ''Armavir'' penitentiary institution were in an unacceptable sanitary and hygienic condition. During the visit, there was a very poor sanitary and

hygienic condition in the toilet adjacent to the visits and video call room with the glass partition, there was a stench. The same situation was in the toilet adjacent to the interrogation rooms.

In connection with the abovementioned, the RA Ministry of Justice informed that cosmetic renovation works were performed in the toilets of the Penitentiary Institution and the toilet bowl in the toilet adjacent to the short-term visiting room has been replaced with a new Asian-type toilet.

Inadequate working conditions for Penitentiary Institutions were also found in the ‘’Yerevan-Kentron’’ penitentiary institution. In particular, the medical intervention room was overloaded with medical equipment, large containers of disinfectants and other items, as a result of which there was almost no possibility of free movement in the room. It should be noted that 2-3 doctors and 2 nurses work in that room during the day. Some of them have to leave the room during the medical intervention with regard to the person deprived of liberty and move to the restroom of the penitentiary officers. Another problem is that there is no room for doctors to rest. The intervention room was not provided with hot water.

During the visit, it was reported that there was only one toilet for the staff in the whole building of ‘’Yerevan-Kentron’’ penitentiary institution, which was in an unacceptable sanitary and hygienic condition at the time of the visit.

It should be noted that in such deplorable conditions are the offices of employees of almost all Penitentiary Institutions and toilets in them. Such conditions are strictly unacceptable.

In connection with the steps taken to improve the working conditions of Penitentiary Institutions, the Ministry of Justice of the Republic of Armenia provided information that in the ‘’Armavir’’ penitentiary institution, a complete renovation of its toilet of the waiting hall has been implemented, one men’s and one women's toilets of the administrative block has been renovated, and the subdivision block implementing the protection of the institution has been completely renovated in the "Abovyan" penitentiary institution. Renovation works were carried out in 6 toilets in the regime zone of the "Goris” penitentiary institution and in 3 offices, in "Vanadzor' ' penitentiary institution 3 offices were decorated.

During the private interviews, the penitentiary officers expressed their concern about the lack or absence of training and courses.

In connection with the abovementioned, the Ministry of Justice of the Republic of Armenia informed that special training and courses for penitentiary officers were conducted by "Legal Education և Rehabilitation Programme Implementation Center" SNCO in the in the educational center located in Karbi village of Aragatsotn Province of the Republic of Armenia.

According to the Ministry of Justice, the training included, among other things, the specifics of working with vulnerable groups and juvenile delinquents, the right to life, international standards for fighting against torture, inhuman or degrading treatment, organization of re-socialization, and code of conduct of

penitentiary officer. Within the framework of the special training courses, topics on physical-combat training, self-defense and tricks of using special means, planned-unplanned searches were studied. According to the information provided by the Ministry, in 2020, training of 600 penitentiary officers was organized, and 1875 penitentiary officers participated in special training courses.

Of course, the organization of special training courses for penitentiary officers is welcome, but it is necessary for them to be continuous and regular, involving as many Penitentiary officers as possible.

It should be noted that the Ministry of Justice also provided information on the process of introducing the "E-penitentiary" electronic management system for the "Information Register of Detained and Convicted Persons". According to the Ministry, the development of the system is conditioned by the need to process complete information on persons deprived of their liberty in Penitentiary Institutions, to provide a comprehensive analysis of the work done by the units, as well as to introduce effective control measures. The necessary equipment was acquired to implement the system, the server room was furnished, an L2 external network (DATA) was established between 12 Penitentiary Institutions and between the central body of the Penitentiary Service, and the penitentiary system staff was trained.

The Ministry stated that the programme measures, approved by the RA Government Decree No. 1717-Լ "On Approving Penitentiary Probation Strategy of the Republic of Armenia for 2019-2023, the Programme of Measures for its Implementation for 2019-2023, the Financial Evaluation of the Programme and the Formation of the Council Coordinating the Implementation of the Programme and the Procedure of the Organization of its Activities'', envisaged the system to be fully operational in the first decade of September 2020, but due to the long-term state of emergency declared in the Republic of Armenia, it was impossible to conduct training courses for penitentiary officers. Accordingly, only at the end of 2020 was it possible to create the necessary preconditions to ensure the full operation of the system in the first quarter of 2021.

Therefore, summarizing the issues abovementioned, it is necessary to:

- ✓ ***Review the staffing of penitentiary officers according to the proportion of the inmate capacity of Penitentiary Institutions;***
- ✓ ***Provide sufficient number of staff for Penitentiary Institutions;***
- ✓ ***Take active steps to fill vacancies;***
- ✓ ***Take continuous steps to improve the system of social guarantees for penitentiary system employees, including salaries;***
- ✓ ***Provide adequate working conditions for penitentiary staff, including offices with adequate conditions, adequate conditions for eating, and adequate sanitary and hygienic conditions for toilets;***
- ✓ ***Continue to provide regular training for penitentiary officers, ensuring that as many officers as possible are involved.***

CHAPTER 5. CONDITIONS OF TEMPORARY CELLS IN COURTS FOR KEEPING PERSONS DEPRIVED OF THEIR LIBERTY

The Human Rights Defender as the National Preventive Mechanism continues to monitor, among other places of deprivation of liberty, the conditions of temporary cells in courts for keeping persons deprived of their liberty, as well as the organization of preventive measures against the novel Coronavirus pandemic.

According to the explanations of the Supreme Judicial Council of the Republic of Armenia, no separate strategy has been developed for the implementation of new, separate measures due the novel Coronavirus pandemic in temporary cells in courts of the Republic of Armenia for keeping persons deprived of their liberty, nevertheless, the Supreme Judicial Council followed the instructions of the RA Commandant. In the framework of the fight against the prevention and spread of the novel Coronavirus, in 2020 the Judicial Department acquired appropriate disinfectant-protective measures, in particular, disinfectant liquids, disposable masks, gloves, which were distributed to all courts of the Republic of Armenia. Moreover, the administrative buildings of all the courts of the Republic of Armenia, including the cells, walls and doors intended for the detention of persons deprived of their liberty, were regularly disinfected with thermal aerosol generators and disinfectants. According to the information provided, the bailiffs wore protective masks and used disinfectant when communicating with the detainees.

According to the explanations provided by the Supreme Judicial Council of the Republic of Armenia, in 2020 all courts were provided with non-contact electronic thermometers.

According to the information provided, in some courts as of 11 February 2021, the thermometers were not operating in some courts.

In particular, the thermometers of Vanadzor, Stepanavan and Spitak residences of the Lori Province Court of First Instance of Criminal Court of Appeal, Armavir residence of the Court of First Instance of the Armavir Province, and Kentron residence of the Court of First Instance of the city of Yerevan need to be repaired.

Even with a thermometer, the organization of the process of measurement of temperature is problematic. Thus, in the Courts of First Instance of the Aragatsotn and Kotayk Provinces of the Criminal Court of Appeal, as well as in Vanadzor, Stepanavan and Spitak residences of the Lori Province Court of First Instance, the temperature of the persons deprived of their liberty and the police officers accompanying them has not been measured in 2020.

Problems with temporary cells in courts for keeping persons deprived of their liberty have been regularly reported in the Human Rights Defender's *annual* reports[188] on the activities of the National Preventive Mechanism.

According to the explanations provided by the Supreme Judicial Council of the Republic of Armenia, in 2020, no improvement or repair works were carried out in temporary cells in courts for keeping persons deprived of their liberty of the Republic of Armenia. Therefore, the problems registered in previous years have remained unchanged.

The accessibility of the temporary cell in courts for keeping persons deprived of their liberty at the Armavir residence of the Court of General Jurisdiction of the Armavir Province continues to be problematic for persons with mobility problems.

Another issue is the provision of natural and artificial lighting in temporary cells in courts for keeping persons deprived of their liberty as was the case, for example, in the Abovyan residence of the Court of General Jurisdiction of the Kotayk Province. Of particular concern is the incomplete partition of toilets in temporary cells in courts for keeping persons deprived of their liberty (Avan residence of the Court of First Instance of the city of Yerevan) or their absence in the cells (Hrazdan and Abovyan residence of the Court of First Instance of the Kotayk Province).

Moreover, according to the information provided, as of 11 February 2021, there are no cells for persons deprived of their liberty in the Gavar and Martuni residences of the Court of General Jurisdiction of the Gegharkunik Province, the administrative buildings of Ashotsk and Artik residences of the Court of First Instance of the Shirak Province, as well as in the administrative building of the Sisian residence of the Court of First Instance of the Syunik Province.

Therefore it is necessary to:

- ✓ ***Separate the sanitary units of the court cells from the general part with a full wall;***
- ✓ ***Provide adequate lighting in the temporary cells for keeping persons deprived of their liberty;***
- ✓ ***Provide courts with operable non-contact (electronic) thermometers.***

[188] See, in more detail: https://www.ombuds.am/images/files/dcc37ac516d1268bb59999f72c76d982.pdf and https://www.ombuds.am/images/files/f6bccc6db65258e28be6f3e093987a15.21 webpages, as of 31.03.2021, pages 272-276 and 325-338.

CHAPTER 6. SPECIAL VEHICLES FOR TRANSPORTATION OF PERSONS DEPRIVED OF THEIR LIBERTY, THEIR CONVOY AND PROTECTION

The Human Rights Defender as the National Preventive Mechanism, has always been monitored to ensure that the Police provide adequate conditions in the special vehicles for persons deprived of their liberty during their transportation. During 2020, among other things, the issues related to overcoming the challenges in the context of the prevention of the novel Coronavirus pandemic were studied.

According to the explanations provided by the RA Police, within the framework of the measures aimed at the prevention of the novel Coronavirus pandemic, the vehicles intended for transportation of the persons deprived of their liberty are disinfected twice a day (morning and evening) by the captain of the battalion by dehydration or by wet treatment with a chlorine-containing disinfectant solution. In order to prevent the novel Coronavirus pandemic, the number of persons deprived of their liberty being transferred at the same time has been reduced for keeping social distance as much as possible. Persons deprived of liberty and Police officers wear protective measures- masks and gloves during transportation. Hand sanitizers are provided during transportation. In the process of convoying, the anti-pandemic rules are supervised by the head of the convoy.

According to the information provided, the surfaces of the seats, lattices and handles of the cells of the vehicles for the transportation of persons deprived of their liberty are disinfected with wet treatment 2-3 times a day with a chlorine-containing disinfectant solution, ventilation and lighting are provided. Regarding the availability of seat belts, the Police clarified that there are no seat belts in the vehicles, as their factory structure does not have such facilities, it is not subject to change.

In this regard, it should be emphasized that the proper implementation of preventive measures in the context of the novel Coronavirus (COVID-19) pandemic should play a key role in the transfer of persons deprived of their liberty.

Despite the abovementioned clarifications, a number of issues have been identified during 2020, which will be presented below.

Vehicle conditions

A number of issues related to the conditions of vehicles transporting persons deprived of their liberty, the need to organize transportation, and the need for new equipment regularly are raised in Annual reports on the activities of the Human Rights Defender's as the National Preventive Mechanism,

According to the written explanations of the RA Police, no new vehicles were purchased in 2020. According to the Order No. 771-Ա ‘’On the Implementation of the 2020-2022 Action Plan to be Implemented by the RA Police Based on the RA National Strategy for Human Rights Protection’’ of the

RA Police Chief of 9 March 2020, it is planned to acquire vehicles for the transportation of arrestees and detainees (including persons with special needs and with disabilities) in the first half of 2022..

The issues raised by the Human Rights Defender regarding the conditions of vehicles, in particular, the size of the cells, light transmittance, ventilation, remain relevant, as the RA domestic legislation does not set clear criteria. This is even more problematic in the context of preventing the novel Coronavirus pandemic

The CPT's standards on the conditions of vehicles intended for the transportation of persons deprived of their liberty, in particular the size of their cells, are noteworthy. Thus, according to the CPT's reports on Lithuania in 2001[189], on Ukraine in 2002[190], and on Poland in 1998[191], **it is unacceptable to transfer persons to cells measuring 0.4, 0.5 and even 0.8 square meters, regardless of its duration.**

Therefore, it can be stated that the surface for each person deprived of his of her liberty in the cells of vehicles intended for the transportation of persons deprived of liberty must exceed 0.8 square meters. Meanwhile, 0.3, 0.4 and 0.5 square meters of cells per person were permanently registered during the visits.

An analysis of the case law of the European Court of Human Rights suggests that the transportation of persons deprived of their liberty in overcrowded conditions is considered by the European Court to be a violation of Article 3 of the European Convention on Human Rights[192].

It should be stated that in 2019, that the draft law on amendments and additions to to the RA Government Decree No. 351-Ն "On Approval of the Procedure for Convoy and Protection of Arrestees and Detainees under the Government of the Republic of Armenia" of 2 April 2009 was submitted to the Human Rights Defender. According to it, in case of impossibility of convoying persons with special needs related to the disease by special vehicles, their convoy and protection can be organized by means of ambulance. **However, it is worrying that no active steps have been taken in 2020 to adopt the project.**

[189] See: https://rm.coe.int/1680697331 webpage, as of 31.03.2021, paragraph 117.

[190] See: https://rm.coe.int/1680698401 webpage, as of 31.03.2021, paragraph 129.

[191] See: https://rm.coe.int/1680697913 webpage, as of 31.03.2021, paragraph 68.

[192] See: Judgement made on the 22nd of May, 2012 on the case of *''Idalov v. Russia''*, Application no. 5826/03, Para.-s 54 54 54, 61 and 103;

The issue of vehicles adapted for the transportation of persons deprived of their liberty with special needs has been raised in the *annual* reports[193] on the 2018-2019 activities of the Human Rights Defender's as the National Preventive Mechanism but appropriate solutions are not yet available.

Thus, it is necessary to take urgent steps to adopt the abovementioned project as soon as possible.

During the monitoring carried out in 2020, as well as complaints and alarms received by the Human Rights Defender, a number of issues related to the transportation, convoy and protection of persons deprived of their liberty carried out by specialized convoy units of the RA Police were raised,.

Thus, according to Article 17 of the RA Law ‘’On Police’’, the Police is obliged to convoy and protect the **detainees and arrestees** in cases prescribed by law, in accordance with the procedure established by the Government.

In 2020, the specialized convoy units of the RA Police refused to take the convicted persons to court, saying that their function was only to transport the arrestees and detainees.

As a result of the refusals of the specialized convoy units of the police, the court hearings on the early conditional release from serving a sentence of the convicted persons were postponed due to a serious illness that hinders them from serving their sentences. The problem was of a systemic nature, many convicted persons faced it. During the visits to Penitentiary Institutions in 2020, this issue was also raised by the representatives of the administrations of the institutions.

It should be noted that paragraph 6.1 of the programme measures approved by the RA Government Decree No. 1717-Լ "On Approving Penitentiary Probation Strategy of the Republic of Armenia for 2019-2023, the Programme of Measures for its Implementation for 2019-2023, the Financial Evaluation of the Programme and the Formation of the Council Coordinating the Implementation of the Programme and the Procedure of the Organization of its Activities’’ of 28 November 2019 *envisages the analysis of legislative and sub-legislative legal acts regulating the convoy and protection of detainees by submitting proposals on the separation of the functions of the penitentiary service and the police. T*he deadline for implementation of this point was the first decade of May, 2020.

The analysis of the RA Ministry of Justice presented in 2020, aimed at the implementation of the abovementioned measure, came to the following conclusion. *"The implementation of the function of convoy and protection of detainees in Penitentiary Institutions, courts, examination centers, medical institutions, places of judicial proceedings, in accordance with the current procedure, will continue to be reserved for the Police, and the implementation of the function of organizing the convoy of detained*

[193] See: https://ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf and https://ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpages, as of 31.03.2021, pages 276-280 and 332-337.

and convicted persons from one penitentiary institution to another, convoy from the penitentiary institution to the civil healthcare institution and the implementation of the function of organizing the service in the temporary guard post appointed in the hospital, according to the current procedure, continue to be reserved for the Penitentiary Service. In cases defined by international agreements, the implementation of the function of convoy and transportation of convicted persons, according to the current procedure, will continue. to be entrusted to the Penitentiary Service, and to carry out the function of convoying and transporting detainees to the Police"

It is worth mentioning that the analysis did not address the function of transferring convicted persons to court and to the state authority responsible for its implementation.

It is noteworthy that in the opinion of the Human Rights Defender's Office, submitted on the 14th of July 2020, regarding this analysis, it was mentioned that it does not reflect both the problems related to the transportation of persons deprived of liberty raised in the *annual* reports of the Human Rights Defender. and the positions of the Police in this regard.

In connection with the abovementioned, the Human Rights Defender addressed relevant letters to the RA Police and the RA Ministry of Justice. According to the received clarifications, the issue of transportation, convoy of convicted persons and the issue of security was discussed during the meeting with the RA Prime Minister, it was decided that the mentioned process will continue to be carried out by the police forces **until the issue is finally resolved.**

In fulfillment of the RA Prime Minister's instruction, the RA Ministry of Justice proposed 3 options for resolving the issue being our subject of matter. The first option envisages to entrust convoy and protection of convicted persons to the Penitentiary Service. The second option envisages to entrust convoy and protection of both convicted and detained persons to the Penitentiary Service and the third option envisages to entrust convoy and protection of both convicted and detained persons to the RA Police.

According to the information received from the RA Ministry of Justice, the first option of the abovementioned solutions is considered preferable, but **the final solution of the issue has not been given yet**.

Thus, whether the issue of transportation of convicted persons from Penitentiary Institutions to courts, convoying them or protecting them has now got a situational and temporary solution, it is of a systemic nature, and must be resolved finally at the legislative level.

Therefore it is necessary to:

- ✓ ***Take continuous measures to meet the requirement of providing at least 0.8 square meters of space for each person in the cells of special vehicles;***

- ✓ ***Ensure other criteria of cell surfaces, lighting, ventilation in special vehicles by domestic legislation, ensuring their practical implementation;***
- ✓ ***Provide the convoy battalions of the RA Police with vehicles adapted for the transportation of persons deprived of their liberty with special needs;***
- ✓ ***Regulate the issue of the responsible body for transportation of convicted persons to courts, their convoy and protection at the legislative level.***

CHAPTER 7. DEPARTMENTS AND PLACES FOR KEEPING ARRESTEES OF RA POLICE

One of the main activities of the Human Rights Defender's institution as the National Preventive Mechanism is the protection of the rights of persons deprived of their liberty in Police Departments and in the Places for Keeping Arrestee. The issues raised within the framework of this activity and the proposals for their solution are presented in this *annual* report.

Before presenting them, we consider it necessary to address the issues of cooperation with the Police.

In particular, the institutional cooperation with the Police provided an opportunity to discuss issues with professional approaches to the solution of this or that problem. There were regular discussions between the RA Police Chief and the Human Rights Defender regarding the implementation of the proposals, as well as the initiatives of the service.

Within the framework of the activities of the Human Rights Defender's Institution, including the National Preventive Mechanism, effective cooperation was ensured with the RA Police, including the management staff of the Police Headquarters and the administrations of other Police departments. This also applies to non-working hours and days of collaborative work. Collaboration on this principle has provided a comprehensive approach, including taking into account the observations of police officers on the complexities of their work, problems and making recommendations on the protection of human rights, depending on how effective or problematic they may be in practice. Collaboration with professional approaches was implemented with the RA Police Headquarters.

From the point of view of human rights protection in places of deprivation of liberty, we consider it necessary to ensure the continuous development of the capacity of the Police and its subdivisions (training, etc.), as well as the continuous strengthening of their social guarantees. This report discusses this in more detail in a separate subchapter.

Representatives of the National Preventive Mechanism visited RA Police stations and the places for keeping of arrestees, where appropriate monitoring activities were carried out.

In order to solve a number of systemic issues regularly raised in the *annual* reports of the Human Rights Defender as the National Preventive Mechanism, the RA Government Draft Decree ‘’On Making Amendments in RA Government Decree No. 574-Ն[194] of 5 June 2008" has been elaborated by the RA Police and submitted to the Human Rights Defender for their consideration. In connection with the draft, the Human Rights Defender, as the National Preventive Mechanism, presented relevant proposals and considerations, but no effective and active steps were taken in 2020 for its implementation.

[194] RA Government Decree No.574-Ն "On Approving the Internal Regulations of Places for Keeping the Arrestees Operating in the Police System of the Republic of Armenia" of 5 June 2008.

The problems registered as a result of the monitoring carried out in the Police Departments and in places for keeping detainees during 2020 are as follows:

7.1. Prevention of the novel Coronavirus pandemic

In response to the Human Rights Defender's inquiry, the RA Police provided information that preventive measures had been taken in places for keeping detainees due to the novel Coronavirus pandemic according to the methodological instructions given by the Hygienic Pandemic Control Center of the RA Police Medical Department (hereafter as MD HPCC) – daily measurement of temperature, maintaining social distance, applying protective measures, disinfecting the area, etc.

Moreover, according to the information provided by the RA Police, the persons who entered the Police Department are subjected to measurement of temperature and the results are recorded in the register by the duty officer.

However, during the monitoring visits of the National Preventive Mechanism in 2020, it was stated that there was a lack of proper anti-pandemic control over the entry of persons into the Police building due to the novel Coronavirus pandemic. During the visits, the temperature of neither police officers entering the administrative buildings of places for keeping detainees, nor the persons deprived of their liberty admitted to places for keeping detainees were measured. This was due to technical problems, such as the malfunctioning or absence of non-contact (electronic) thermometers, as well as organizational problems, such as the lack of appropriate procedures and responsible employees. The relevant registers of recording the results of temperature measurement were not maintained.

In particular, the temperature of the persons entering Ashtarak and Kotayk Police Departments wasn't measured at the time of the visit and they weren't identified, which is a matter of concern from the perspective of preventing the pandemic, as it in the future, it will not be possible to identify and discover all persons who have entered Police stations within the framework of preventive measures against the spread of the novel Coronavirus pandemic.

While entering the administrative building of the Ashtarak Police Department, the temperature of representatives of the Human Rights Defender was measured by a police officer (with a non-contact thermometer), but the results were not recorded. In the Kotayk Police Department, the temperature of the Human Rights Defender's representatives was measured at their request, but it turned out that the thermometer wasn't functioning (the temperature of the Human Rights Defender's representative was 22 ° C). According to the information provided by the Police, the malfunctioning of the thermometer was due to the expiration date of the battery, which was replaced with a new one immediately after the departure of the Human Rights Defender's representatives.

According to the information provided during the visit to the Kotayk Police Department, the temperature of the police officers entering the Police Department and Places for Keeping Detainees of the Kotayk Province was measured every morning, but the results were simply not recorded, and the officers with high temperatures were sent home. These allegations caused reasonable bewilderment, as it was not possible to arrange it in case of a non-functioning thermometer.

Other issues related to the prevention of the novel Coronavirus pandemic were identified during the visit. Thus, police officers generally did not wear masks or wear it in violation of the established procedure (the mask did not cover the nose and (or) mouth), other anti-pandemic rules were not observed, officers regularly touched the surface of the masks with their hands, did not maintain social distance, there were no closed garbage bins for the used masks and gloves, as well as disinfectants in the corridors.

Thus, in the conditions of the novel Coronavirus pandemic in 2020, the preventive measures were not properly organized and implemented.

According to the official explanations provided by the Police, after the monitoring visits carried out by the Human Rights Defender's representatives, hand sanitizers, closed garbage bins for the used masks and gloves were placed in the corridors of Ashtarak and Kotayk Departments, which is welcome.

In response to the Human Rights Defender's annual inquiry, according to the information provided by the RA Police, separate cells were provided in places for keeping detainees for suspicious cases of the novel Coronavirus pandemic or isolation of those with high temperature, and in case of high temperature, it was required. To call an ambulance. However, monitoring by the National Preventive Mechanism revealed that only one cell in the Places for Keeping Detainees of Ashtarak was separated for the purposes of the isolation of persons deprived of their liberty suspected of being infected with the novel Coronavirus.

Unlike the Places for Keeping Detainees of Ashtarak, all the cells of Places for Keeping Detainees of Ashtarak contained disinfectants and medical masks, which is to be welcomed.

In response to the Human Rights Defender's inquiry, the RA Police informed that a separate cell was provided for arrestees with chronic diseases being in the age of the risk group until the arrest deadline, for the purposes of not having contacts with other persons, and to call an ambulance in case of a complaint, however, no such practice was recorded during monitoring visits.

However, it should be noted that the RA Police informed that in 2020, 2 PCR tests were performed to detect the novel Coronavirus in places for keeping detainees of the city of Yerevan, the results of which were negative, and no such tests were performed in places for keeping detainees of the regions.

Therefore, it is necessary to:

- ✓ ***Develop mechanisms for prevention of the novel Coronavirus pandemic and outbreak management activities in the Police Departments and places for keeping detainees and, ensuring the implementation of the methodological instructions given by the MD HPCC;***
- ✓ ***Carry out proper control over the persons entering places for keeping detainees to maintain anti-pandemic (preventive) measures;***
- ✓ ***Install hand sanitizers in the corridors of places for keeping detainees, as well as closed, garbage bins with pedals for the used masks and gloves;***
- ✓ ***Provide Police Departments and places for keeping detainees with non-contact (electronic) thermometers that work well.***

7.2. Living conditions

Reasonable accommodation and adequate living conditions are necessary for the normal life of persons deprived of their liberty in places for keeping detainees. As a result of the conducted studies, the problems related to the living conditions registered in places for keeping detainees can be classified into the following groups:

1) cell conditions;
2) washing, bathing and sanitary-hygienic conditions;
3) food;
4) outdoor exercises.

1) Proper lighting, including adequate daylight coverage, is one of the most important elements in ensuring the well-being and normal life of persons deprived of their liberty. During the monitoring visits, it was stated that the level of natural light in the cells of the observed Places for Keeping Detainees of the Kotayk Province and Ashtarak was low, which was due to the very small and latticed windows. It is also problematic that the windows in the cells of places for keeping detainees open from the outside of the building, from the yard, and there is no separate ventilation system in the cells. Moreover, the windows of the cells of Places for Keeping Detainees of Ashtarak are quite high; inconveniences can occur even when opened from the side of the outdoor exercise yard by the employees of places for keeping detainees.

In response to the Human Rights Defender's inquiry, according to the clarifications provided by the RA Police, in 2020, renovation works were carried out in the Places for Keeping Detainees of the Kapan Police Department. During the renovation works, the windows of the cells were changed, new metal-plastic windows were installed, which were opened and closed by the electric buttons set in the corridors of places for keeping detainees by the policemen. These windows provide sufficient transparency of

natural light and proper ventilation. However, in 2020, the Places for Keeping Detainees of the Kapan Province was not operated after renovation.

It should be noted that the electric lighting in the cells of places for keeping detainees, observed during the visits, was generally not switched off or dimmed overnight.

According to the information provided, the electric lighting was not turned off to monitor the persons kept in the cells. As a result, adequate sleeping conditions have not been created for those deprived of their liberty.

In this regard, it should be emphasized that paragraph 84 of the Annex approved by the RA Government Decree No. 574-Ն of 5 June 2008 contradicts the CPT standards.

According to paragraph 26 of the CPT's 2017 report on the Netherlands, *the lights in the cells of police stations can be switched on at night only if the need arises*[195]. A similar need may arise, for example, for persons deprived of their liberty in each case, as well as for reasons justified in ensuring the safety of administration staff of places for keeping detainees. For example, this may be the case when there is a need for special control over a person deprived of their liberty due to their behaviour, which cannot be exercised at night in the absence of lighting in a cell.

In this regard, on the basis of the recommendations of the Human Rights Defender as the National Preventive Mechanism, on the 10th of September 2019, the RA Government Draft Decree''On Making Amendments in the RA Government Decree No.574-Ն of 5 June 2008'' was submitted to the Human Rights Defender's Office, however, it is worrying that no active steps have been taken to adopt the draft in 2020.

Thus, it is necessary to take urgent steps to adopt and implement the abovementioned project as soon as possible.

During the monitoring it was registered that there was a need for renovation in the observed places for keeping detainees in particular, the floor was worn out, the plaster of the walls was spilled in some places.

Therefore, it is necessary to:

- ✓ ***Take measures to organize necessary renovations in places for keeping detainees;***
- ✓ ***Provide the cells of places for keeping detainees with ventilation systems or allow persons deprived of their liberty to ventilate the cell by opening windows;***
- ✓ ***Provide the cells of places for keeping detainees with artificial regulators to reduce artificial lighting.***

[195] See: https://rm.coe.int/16806ebb7c webpage, as of 31.03.2021.

2) In the Places for Keeping Detainees of Ashtarak, the bathroom and the toilet are not separated from each other, as a result of which the person deprived of liberty cannot use the bathroom when another person deprived of liberty takes a bath. Moreover, in both monitored Places for Keeping Detainees, the Asian-style toilets were not separated from the common area, they were located one degree above the general floor level, which may create additional difficulties for persons with mobility problems to use the toilets.

According to the clarifications provided by the police, persons with mobility problems use the toilet with the help of the administrations of places for keeping detainees.**This practice is unacceptable?**

In response to the request of the RA Human Rights Defender, the RA Police provided written information that both in previous years and in 2020, during the renovation works in places for keeping detainees, the toilets were separated from the bathrooms if possible, and if not impossible the toilets are separated by half walls.

In the Places for Keeping Detainees of the Kotayk Province, the two Asian-style toilet bowls of the persons deprived of their liberty, were found in obviously different sanitary and hygienic conditions. One of them was worn out, in a very poor sanitary condition, which led to a high level of air pollution.

It is also worrying that in the 5th cell of the Places for Keeping Detainees of the Kotayk Province, the water tap was damaged due to rust, spilling out of the sink with an irregular jet. According to the information provided, the tap was replaced with a new one after the monitoring visit.

There were no personal hygiene items except soap in the cells of places for keeping detainees, such as a toothbrush, toothpaste, and toilet paper (Places for Keeping Detainees of Ashtarak). In the cells of Places for Keeping Detainees of the Kotayk Province and Ashtarak there was both a soap in a box and liquid soap, moreover, in some cells the soaps were used or in open boxes. The presence of liquid soap in the cells is welcome, as it reduces the transmission of possible infections.

As a result of the research, it was registered that the Places for Keeping Detainees of the Kotayk Province did not provide women with hygienic items though there was a special cell for women in places for keeping detainees. It should be noted that such a practice has also been reported in a number of other places for keeping detainees.

However, it is commendable that there were women's hygiene items in the medication box of the Places for Keeping Detainees of Ashtarak.

In this regard, it should be noted that according to the CPT 10th General Report, *the woman's specific needs for hygiene items must be satisfied accordingly. Of great importance are the availability of sanitary and washing facilities, safe arrangement of spoilage of items with bloody traces, as well as the.*

provision of hygiene items such as ***"sanitary towels" and sanitary napkins. Failure to provide such essentials can in itself be a bad attitude***[196].

In this regard, it is welcome that Article 28 of the Annex to the RA Government Draft Decree "On Making Amendments to the RA Government Decree No. 574-Ն of 5 June 2008" submitted to the Human Rights Defender's Office provides among other things, feminine hygiene items for women admitted to places for keeping detainees during their stay.

During the monitoring visits of the National Preventive Mechanism in 2020, there were no contracts with laundries in places for keeping detainees. The laundry in the Places for Keeping Detainees of the Kotayk Province was organized by the washing machine in places for keeping detainees, and the laundry in Places for Keeping Detainees of Ashtarak was organized in the laundry of Ashtarak Medical Center on the basis of an oral agreement. According to the information provided, a new washing machine and iron was purchased for the Places for Keeping Detainees of Ashtarak to organize on-site washing from January 2021. The representatives of the administration of places for keeping detainees also mentioned that in case of organizing on-site washing, the cleaner of places for keeping detainees will be responsible for it.

In response to a request for this, according to the information provided by the RA Police, the Economic Department of the Police provided new beddings to all places for keeping detainees, the cells were equipped with radio receivers, and call signaling systems were installed. Places for keeping detainees managers have been instructed to sign contracts with laundries, and in places for keeping detainees with washing machines, the cleaning work is performed by the cleaners of places for keeping detainees using chlorine-containing disinfectants.

It should be noted that it is unacceptable for a cleaner or other employee of places for keeping detainees to wash the linen and bedding as it may carry a risk of spreading various infectious diseases.

Given that there are many persons deprived of liberty kept in places for keeping detainees who may be infected with various diseases, it is necessary to develop a common disinfection format in places for keeping detainees, including bedding and linen disinfection standards, which will exclude the possibility of spread of infectious diseases.

Therefore, it is necessary to:

- ✓ ***Separate the bathroom and the toilet in places for keeping detainees;***
- ✓ ***Places for keeping detainees to adapt to the needs of persons with mobility problems;***
- ✓ ***Provide places for keeping detainees with personal hygiene items, including toothpaste***

[196] See: https://rm.coe.int/1680696a74 webpage, as of 31.03.2021, paragraph 31.

and brush, toilet paper, and women's hygiene items;

- ✓ ***Take immediate measures to ensure proper organization of washing in places for keeping detainees;***
- ✓ ***Develop and establish a common format on proper disinfection in places for keeping detainees, including bedding disinfection standards, which will exclude the possibility of the spread of infectious diseases.***

3) It should be emphasized that one of the important conditions for the normal life of persons deprived of their liberty in places for keeping detainees is the provision of necessary, sufficient and varied food.

The Human Rights Defender's representatives stated that the food of persons deprived of their liberty in the monitored places for keeping detainees was provided through delegated services on the basis of a relevant agreement with private organizations. According to the Places for Keeping Detainees of Ashtarak administration, the menus attached to the contract are seven, according to the days of the week, which are repeated every seven days. A study of the menus of the week showed that apart from tea, bread and fish without head, the variety of main dishes is not great: dishes with different combinations of potatoes, buckwheat, spaghetti, rice and peas. No food supply contract was provided by the Places for Keeping Detainees of the Kotayk Province during the visit.

According to the information provided during the monitoring visits of the National Preventive Mechanism in 2020, **830 AMD** is allocated to provide one person deprived of liberty with daily portion of food in places for keeping detainees, however, according to the written answers of the RA Police, the amount of daily portion of food provided to one person in places for keeping detainees to provide free food to persons kept in places for keeping detainees was increased to **1200 AMD** in 2020, as a result of which the process of food supply was significantly improved.

In such a case, the question arises whether even the revised amount of the increased amount is sufficient to provide a person deprived of liberty in places for keeping detainees with the minimum portions of food envisaged by the Annex to the RA Government Decree No. 587-Ն of 15 April 2003 "On Setting Minimum Portions for Providing Free Food to Persons Kept in Places for Detainees''.

The same issue was raised by the representatives of the administration of places for keeping detainees, noting that in case of such a small amount, the number of private companies applying for the tender for food supply decreases from year to year. Sometimes, the administration of places for keeping detainees urges some organizations to apply for these tenders.

As referred to the parcels brought to the persons deprived of their liberty in places for keeping detainees during the monitoring it was reported that it was checked by the officers with knives and forks. There are no special technical means for checking parcels, which is a systemic problem in all places for keeping detainees.

Therefore, it is necessary to:

- ✓ ***Review the amount of money allocated to one person deprived of liberty for a daily portion of food in places for keeping detainees;***
- ✓ ***Provide places for keeping detainees with special technical means for checking parcels, excluding unnecessary division of food and spoilage.***

4) During the monitoring, the representatives of the National Preventive Mechanism also registered problems related to the provision of outdoor exercises for persons deprived of their liberty in places for keeping detainees.

The outdoor exercise yards of the observed places for keeping detainees were equipped with covers for shelter from bad weather, benches and garbage bins.

It should be noted that at the time of the visit, the roof of the Places for Keeping Detainees of the Kotayk Province park had cracks, it did not completely cover the part of the park where the bench was placed, as a result of which the old bench and the adjacent wall were wet. The roof of the Places for Keeping Detainees of Ashtarak park was large enough to completely cover the bench and the adjacent area.

Although the RA Government Decree No. 574-Ն of 5 June 2008 does not stipulate the obligation to place a bench in places for keeping detainees in the outdoor exercise yards, it should be noted that, among others, it is envisaged by international standards. Thus, in the 2014 report on Hungary, in Article 31, the CPT emphasized *the need to take steps to establish recreational facilities for outdoor exercises in order to provide effective shelters for adverse weather*[197].

Another issue is ensuring the employment of persons deprived of their liberty in places for keeping detainees.

Thus, in the Places for Keeping Detainees of Ashtarak there were no other facilities for sports and gymnastics, except for the gymnastic pole hanging in the park. The Places for Keeping Detainees of the Kotayk Province did not provide any opportunities for gymnastics at all.

In this regard, it is commendable that according to paragraph 84 of the Annex to the RA Government Draft Decree "On Making Amendments to the RA Government Decree No. 574-Ն of 5 June 2008" submitted to the Human Rights Defender's Office, outdoor exercise yard *of places for keeping detainees must be equipped. with the opportunity to do gymnastics, be equipped with a bench and a garbage bin.*

[197] See: https://rm.coe.int/1680696b7f webpage, as of 31.03.2021, paragraph 31.

In this regard, the Police informed that the roof of the Places for Keeping Detainees of the Kotayk Province outdoor exercise yard has already been repaired, in addition, the park of places for keeping detainees has been provided with a gymnastic rod.

During the monitoring conducted in previous years, the Human Rights Defender's representatives identified another problem related to the use of the outdoor exercise yards of places for keeping detainees for persons with mobility problems. In response to the 2020 annual survey, the RA Police stated that persons with mobility problems are taken out to the outdoor exercise yards with the help of representatives of the administration of places for keeping detainees.

Such a practice is highly unacceptable. Steps must be taken to make outdoor exercise yards of **places for keeping detainees accessible to persons with mobility problems.**

Therefore, it is necessary to:

- ✓ ***Provide the outdoor exercise yards with adequate coverage to protect against adverse weather conditions;***
- ✓ ***Ensure unimpeded access to outdoor exercise yards for persons with mobility problems.***
- ✓ ***Equip places for keeping detainees with opportunities for gymnastics.***

7.3. Provision of medical assistance and record keeping

During the monitoring visits carried out by the Human Rights Defender's staff, the issues of organizing medical assistance and service for arrestees and detainees, including medical examination of persons deprived of their liberty, and the proper recording of its results were examined.

Ensuring the protection of medical confidentiality of persons deprived of their liberty is an important component of the organization of medical assistance and services. In this context, it is necessary to exclude the presence of non- medical personnel during the provision of medical assistance and services in places of deprivation of liberty.

It is possible to provide medical examination rooms in places for keeping detainees for the provision of medical assistance and services, as well as to provide proper conditions in them.

It remains a matter of concern that in some places for keeping detainees the rooms for medical examination are combined with rooms for other purposes (for example, the examination room and (or) the visiting room).

Thus, during the monitoring visits, it was reported that the medical examination, visiting and investigation rooms in the Places for Keeping Detainees of the Kotayk Province were connected. In particular, the medical examination room is separated from the interrogation room by a glass partition,

which allows the two rooms to be used for visits. As a result, it is practically impossible to ensure the simultaneous purposeful use of the mentioned rooms.

It is also problematic that the medical examination rooms in places for keeping detainees are not provided with permanent water and a sink.

In this regard, according to the written explanations of the Police, during the renovation works carried out in places for keeping detainees in 2020, if possible, medical examination and medical assistance rooms separated from the rooms for other purposes. However, no such work was carried out in 2020.

Insufficient condition of the rooms for medical examination does not contribute to the proper exercise of the right to health care.

An important component of medical assistance in places for keeping detainees is the provision of necessary medications to persons deprived of their liberty. During the monitoring visits, the number of medications in the medication boxes of different places for keeping detainees was different, there was no common approach to having them.

Thus, in the medication box of the Places for Keeping Detainees of Ashtarak, there was one pack of "Paracetamol", "Ascofen", "Analgin", "Tavegil" tablets each, one bottle of iodine tincture, one vial of "Valerian Pills", one pack of plaster, a thermometer, and disposable masks in the opened state. There was a cotton ball, two boxes of sterilized bandages and one box of women's hygiene items in the medication box. There was no list of medications that should have been in the box.

A list of mandatory medication was attached to the first aid kit of the Places for Keeping Detainees of the Kotayk Province, these are the list of the medication stored three. However, there were no "Valerian" or "Analgin" tablets on the list.

The comparison of the contents of shows of places for keeping detainees, in some cases, the availability of various medications and supplies in them, in particular, there was a "Tavegil", a thermometer, plaster in the first aid kit of the Places for Keeping Detainees of Ashtarak, which was absent in the Places for Keeping Detainees of the Kotayk Province , and in the latter's first aid kit, compared to the previous one, there were ''Aspirin'' tablets.

The availability of medications in the first aid kits of places for keeping detainees and the lack of a unified approach is a matter of concern.

Another problem is the continuing inadmissible practice of providing medications to persons deprived of their liberty by police officers without a doctor's prescription.

According to the information provided by the Kotayk Police Department, the medications provided by the doctor of the ambulance service or, the medications, that persons deprived of liberty had with them

or their relatives brought to places for keeping detainees upon arrival (if there are relevant medical records) are kept in the duty part of the Police and according to the doctor's schedule provided by the staff of places for keeping detainees. In this case, the confidentiality of the information on the medications taken by the person deprived of liberty is not kept confidential. **Such a practice is unacceptable and can have unpredictable consequences.**

During the monitoring visits, it was also stated that persons admitted to places for keeping detainees, as a rule, undergo a medical examination by calling the ambulance service in case they are found to have injuries or complaints about their health. Moreover, information on medical examination results is not recorded in all cases.

Thus, the representatives of the administration of the Places for Keeping Detainees of Ashtarak informed that the ambulance service is called in each case of admission of persons deprived of liberty, but in case the admitted person does not file a complaint, there are no bodily injuries, as a rule the ambulance doctor does not make a record, the arrestee signs in the register of ‘’Medical examination or medical assistance of arrestees" about not having a complaint, and the column "name, surname, patronymic, signature" of the same register remains unfilled. As a result of the study of the relevant register, it was recorded that only in some cases the name of the doctor and the hemodynamic data of the person deprived of liberty were filled in.

Unlike the Places for Keeping Detainees of Ashtarak, in case of admitting persons deprived of their liberty to the Places for Keeping Detainees of the Kotayk Province, the ambulance service is called only in case of injuries or complaints. Moreover, the person deprived of liberty is asked to make a note in the register with the content "I agree" and to sign.

The absence of a doctor's record of the medical examination of persons deprived of their liberty raises reasonable doubts as to the general conduct of the medical examination, which in no case can be dispelled by the will of the person.

The presence of police officers in the medical examination of persons deprived of their liberty remains a concern.

According to the study, the on-duty police officer of places for keeping detainees or the head of the on-duty unit is present at the medical interventions, and if the sex of the person deprived of liberty differs from the sex of the latter, a representative of the same sex is invited from the police staff. In some cases, police officers insisted on attending medical examinations only at the request of a doctor, while in other cases they performed only visual observations.

In its 2016 report on Armenia, the CPT referred to the medical examinations carried out in places of deprivation of liberty. In particular, the CPT reaffirmed the recommendations made in previous years'

reports, stating *that the primary medical examination of a person admitted to a place of deprivation of liberty, in particular the registration and reporting of injuries received, was not carried out properly*[198].

It should be emphasized that any person entering places for keeping detainees should undergo an external medical examination, regardless of whether they request a medical examination, have any complaints or visible bodily injuries.

Pursuant to clause ''e'' of paragraph 10 of the final observations of the Fourth Periodic Report of the Republic of Armenia of UN Committee against Torture, *the State must take effective measures in accordance with international standards to prevent all forms of deprivation of liberty from the outset. to to ensure that all basic legal safeguards for the prevention of torture can be exercised practically.*

One of such rights is the right to a medical examination by a doctor, which must be done out of earshot of the police staff, unless the relevant doctor requires otherwise, out of sight. The State should, in practice, guarantee the independence of doctors dealing with persons deprived of their liberty and other medical personnel, ensure that they properly record and document any signs of ill-treatment or torture and suspicion.

In this regard, it should be emphasized that the medical examination should be performed only by a doctor and out of earshot and out of sight of the staff of the place of deprivation of liberty.

According to the CPT criteria, *the results of each medical examination, as well as the relevant assertion made by the arrestsee, must be formally registered with the attending doctor, provided to the detainee and their lawyer*[199].

The abovementioned issues have been consistently reported since 2017 in the references summarizing the monitoring activities carried out by the Human Rights Defender's as the National Preventive Mechanism and in the Annual reports on the Human Rights Defender's activities as the National Preventive Mechanism, but the issues remain unresolved. Of course, it is commendable that in some places for keeping detainees, in any case of entry of persons deprived of their liberty, an ambulance service is called, which conducts a medical examination of the persons, but the problem is of a systemic nature.

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[198] See: https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806bf46f&fbclid=IwAR2KOO77OWE6hYXSvQmAHhmXT5KIIzz5Mh6fRbxAXqc8iKmIGUfs9RdAw1U webpage, as of 31.03.2021, paragraph 17.

[199] See: CPT 2nd General Report, which covers the period from 1 January 1991 to 31 December 1991, at https://rm.coe.int/1680696a3f webpage, as of 31.03.2021, paragraph 38.

The results of the monitoring visits show that the places for keeping detainees of police do not carry out a preliminary medical examination and a proper professional record.

Thus, on the 23rd of April , 2020, in the register of ‘’Medical Examination or Medical Assistance of Arrestees’’ of the Places for Keeping Detainees of the Kotayk Province, In the corresponding column of G.A was recorded "Bruises/contusion of different parts of body". According to another entry, on the 26th of May, 2020, it was recorded in the column of G.A. "Scratches on the left calf, back of the hands, face".

It is clear from the abovementioned that emergency doctors do not provide a complete picture of the results of an objective medical examination, nor do they describe the exact anatomical location, color, area, or other criteria for each injury.

The lack of recording of the abovementioned criteria in the preliminary examination does not follow from the main goals and requirements of the medical examination.

In connection with the absolute prohibition of torture, the international community has developed a number of criteria to protect, prevent and identify persons deprived of their liberty.

Thus, The United Nations 2004 Protocol[200] against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, (hereinafter referred to as the Protocol) contains important criteria for the effective investigation of cases of torture and ill-treatment. It provides guidelines for submitting information obtained through the authorities to allegations of torture, other forms of ill-treatment, medical examination of victims.

In the cases of torture and other forms of ill-treatment, the role of the medical examination record may be relevant, which may be significant in identifying them.

The protocol sets out standards for the medical examination of victims of torture and ill-treatment. According to paragraph 175 thereof, *the examiner must indicate all the relevant positive-negative data, recording the location of all injuries using a schematic image of a person, their nature.* For this purpose, the Annex to the Protocol provides for special papers containing anatomical diagrams of a man and a woman with appropriate instructions for making notes.

[200] See: the UN Protocol of 2004. A handbook on documenting other forms of torture, other cruel, inhuman or degrading treatment or punishment is available at http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf webpage, as of 31.03.2021.

These are also of preventive importance., The use of the documents and guidelines contained in the Protocol by independent medical professionals will significantly contribute to both the effective investigation, detection and prevention of cases of torture and ill-treatment.

The European Court of Human Rights has also used the principles of the Protocol's guidelines in assessing cases of torture in assessing the legality of States' actions in the context of Article 3 of the European Convention[201].

In this regard, it should be noted that, unlike the places for keeping detainees of police, the Minister of Justice of the Republic of Armenia approved the cases of torture and other forms of ill-treatment, the registration of cases of torture and instructions for their completion in 2020.

Taking into account that the RA Government Draft Decree "On making Amendments in the RA Government Decree No. 574-Ն of 5 June 2008" is still in circulation, at this stage it is necessary to discuss the issue of introducing a supplement guideline of keeping and filling of similar documents in places for keeping detainees of the police.

The development of appropriate templates and guidelines, the training of emergency medical service doctors based on it, and practical application, will greatly contribute to the prevention of torture and other forms of ill-treatment.

Therefore, it is necessary to:

- ✓ ***Separate medical examination area from places for keeping detainees from other purpose rooms in places for keeping detainees;***
- ✓ ***Complete the list of mandatory medications in places for keeping detainees based on common standards of drug security;***
- ✓ ***Provide medical assistance on the instructions of a doctor or health worker and exclude the provision of medications to persons deprived of their liberty by representatives of administrations of places for keeping detainees;***
- ✓ ***Organize the medical examination of each person entering places for keeping detainees regardless of the circumstances in which they submit complaints, requests for examination or the presence of visible bodily injuries;***
- ✓ ***Ensure proper recording of medical examination results;***
- ✓ ***Develop appropriate documentation for recording torture other ill-treatment in places for keeping detainees of police and appropriate guidelines;***
- ✓ ***Provide professional training to emergency doctors on proper injury registration.***

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[201] See: Judgement made on the 3rd of June, 2004 on the case of *''Bati and Others v. Turkey''*, Application no. 33097/96, Para. 100; Judgement made on the 10th of March, 2009 on the case of *''Böke and Kandemir v. Turkey''*, Application no. 71912/01, 26968/02, 36397/03, Para. 48.

7.4. Contact with the outside world

For those deprived of their liberty, maintaining contact with the outside world is extremely important from the point of view of maintaining social ties.

During the monitoring, it was reported that in the Places for Keeping Detainees of the Ashtarak and Kotayk Provinces, visits are provided in rooms with glass partitions, limiting the possibility of physical connection between persons during the visit. Moreover, the Places for Keeping Detainees of the Kotayk Province investigation room, where the medical examination is performed, communicates with the visiting room through a transparent glass partition, which is unacceptable, as it is practically impossible to ensure the joint use of those rooms at the same time.

Despite the fact that paragraph 119 of the RA Government Decree No. 574-Ն "On Approving the Internal Regulations of Places for Keeping the Arrestees Operating in the Police System of the Republic of Armenia" of 5 June 2008 stipulates the requirement to separate the visiting room with a solid barrier and a transparent fence, such an approach contradicts to international standards.

Thus, in connection with the issue under discussion, the CPT underlined in its 2015 report on Austria that *Appointments of persons in detention with their family members should, as a rule, be provided without physical separation. Visiting through a partition should be an exception and used in certain cases when there is a security issue.*

He also expressed his position on the abovementioned issue: the European Court of Human Rights in the case of *''Moiseyev v. Russia''.* According to the factual circumstances of the case, during the visits the complainant was separated from the relatives by a glass partition and communicated with them by internal telephone. In this case, the European Court found a violation of the right guaranteed by Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms[202].

In its position, the Court stated, in particular, that *the provision of glass partition visits could be justified for security reasons, however, this measure could not be considered necessary in the absence of a sound security risk*[203].

In this regard, it is commendable that on the basis of the recommendations of the Human Rights Defender as the National Preventive Mechanism submitted to the Human Rights Defender's Office on the 10th of

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[202] See: Judgement made on the 9th of October, 2008 on the case of *''Moiseyev v. Russia''*, Application no. 62936/00, Para.-s 80, 257-259.

[203] See: Judgement made on the 19th of June, 2007 on the case of *''Ciorap v. Moldova''*, Application no. 12066/02, Para. 117.

September, 2019, "On Making Amendments to the RA Government Decree No. 574-Ն of 5 June, 2008" The RA Government Draft Decree envisages the requirement to separate the visiting room with a solid partition and with a transparent barrier and is replaced by the requirement to place another type of mediator, which will not restrict physical contact between persons.

It is necessary to emphasize once again the urgent need for the adoption of this project.

As for the possibility of using telephone communication for persons deprived of their liberty in places for keeping detainees, it should be noted that in the Places for Keeping Detainees of the Kotayk Province, the taxaphone is placed in the room for visits, it is practically impossible to ensure the proper exercise of the right to use telephone communication and have a visit at the same time.

During the visit, it was not possible to call from the Places for Keeping Detainees of the Kotayk Province taxaphone because it was not operating. Police officers connected with the relevant specialists on the spot to resolve the issue.

Despite the abovementioned issues, the availability of the hotline number of the Human Rights Defender and calling guidelines in places for keeping detainees are welcome.

It is also commendable that the Places for Keeping Detainees of the Kotayk Province has a bookcase to diversify the daily lives of persons deprived of their liberty, which is provided to them upon request. It is also commendable that the cells of the Places for Keeping Detainees of Ashtarak were provided with books, magazines and various information leaflets.

In response to the inquiry of the RA Human Rights Defender, the RA Police provided written information that during 2020, 35 foreign citizens were kept in places for keeping detainees operating in the RA Police system (23 in the the Places for Keeping Detainees of the Yerevan City Department of the RA Police, 5 in the Mush department, 1 in the Vagharshapat department). Persons without citizenship were not kept.

The Human Rights Defender's focus is on the issues of communication with persons deprived of their liberty who do not speak a foreign language, which has been regularly addressed in the *annual* reports.

The problem is more sensitive in terms of maintaining medical confidentiality when providing proper medical assistance and contacting medical personnel.

Language barriers can also be problematic in terms of properly informing and depriving persons deprived of their rights of their rights, such as the issue of providing medical assistance in this chapter and the recording section.

Therefore, it is necessary to develop mechanisms for the persons deprived of liberty who do not know Armenia to communicate with the administration of places for keeping detainees, as well as with those who provide medical assistance and services.

Thus, it is necessary to:

- ✓ ***Ensure the organization of visits for persons deprived of their liberty without a glass partition restricting the possibility of physical contact;***
- ✓ ***Carry out continuous monitoring of the functioning of the taxaphines in places for keeping detainees and ensure the possibility of free calling to the hotline number of the Human Rights Defender's Office;***
- ✓ ***Separate the taxophone from the room for visits in Places for Keeping Detainees of the Kotayk Province, ensuring the opportunity for persons deprived of their liberty to have a confidential telephone conversation.***

7.5. Working conditions of places for keeping detainees employees

The Human Rights Defender constantly focused on guaranteeing the rights of the staff of places for keeping detainees, ensuring a dignified treatment of each of them, and establishing relations that guarantee mutual respect. In this context, the working conditions and social guarantees of police officers, including salaries, deserve special attention.

Insufficient building conditions are problematic in terms of ensuring adequate working conditions for the police officers of places for keeping detainees, as officers spend most of their day in such conditions facing many challenges.

Thus, during the monitoring visits in 2020, it was recorded that the room of the on-duty police officer in the Places for Keeping Detainees of Ashtarak was combined with another room of purpose, the investigation room.

The toilet of the police in Places for Keeping Detainees of the Kotayk Province was in an unacceptable sanitary condition, in dire need of repair.

The small number of on-duty employees in places for keeping detainees is also problematic. In the Places Keeping Detainees of the Kotayk Province and Ashtarak, only one police officer is involved in the daily shift, who, having various responsibilities, works overloaded when there are several persons in places for keeping detainees.

Therefore, it is necessary to provide adequate working conditions for employees in places for keeping detainees, to improve their system of social guarantees, including salaries.

CHAPTER 8. VIDEO AND AUDIO RECORDING SYSTEMS INSTALLED IN POLICE DEPARTMENTS FOR PREVENTION AND DISCOVERY OF POSSIBLE CASES OF TORTURE, INHUMAN OR DEGRADING ATTITUDE

In order to prevent possible cases of torture, due to the need to establish legal bases for the use of video-recording systems in police departments, a draft law "On Making Amendments to the RA Law ‘’On Police" was circulated by the RA Police in 2019.

The draft proposed equipping the entrances of police buildings and the rooms used for interrogation with video and audio recording systems, respectively, in order to prevent and detect other cases of torture and inhuman treatment. The purpose of the video and audio recordings, the terms of storing of the collected personal data, the cases of transfer to third parties were defined.

The draft was submitted to the opinion of the Human Rights Defender's Office, as a result of which a number of issues and concerns were raised. In particular, it was stressed that the solutions proposed by the draft are incomplete in terms of prevention of torture and ill-treatment.

The Human Rights Defender's Office expressed their concern that the draft should target ill-treatment not only at the stage of interrogation of a suspect, but also at the first stage of police-citizen contact, when a citizen has the status of a detainee or "invited" or has no judicial status in the absence of a criminal case.

It was especially emphasized that at the initial stage, the risk of ill-treatment of a person in the absence of legal guarantees, in the absence of a clear judicial status, and failure to ensure their rights is greater.

The RA Law ‘’On Making Amendments to the RA Law ‘’On Police’’ was adopted on the 13th of December, 2019, and in 2020, video and audio recording systems were installed in RA Police departments within the framework of the European Union Budget Support Programme "Support to the Protection of Human Rights in Armenia". Due to the introduction of the video and audio recording system in the police departments, appropriate legal structures have been developed for its operation.

According to the Police, the legal regulations of the technical specifications of video and audio recording systems, the storing and use of the video materials, their availability and a number of other issues are envisaged by the Order No. 17-Լ ‘’On Defining of Technical Characteristics of video and Audio Recording Systems Installed in Police Departments, Procedure for Storing and Use of Video and Audio materials, as well as Possibility to Follow Video Recording in Online Format, the Scope of Police Officers with Access to Video and Audio Materials for the Purposes of Human Rights Protection, Torture and Prevention and Identification of Possible Cases of Torture, Inhuman or Degrading Treatment ″ of the RA Police Chief of 31 March 2020.

In addition, the RA Police stated that a methodological guideline "On Video Recording of Interrogations in Police Departments" was developed for police officers, which was approved by the RA Police Chief Order No. 18-Լ of 31 March 2020.

It should be noted that auditing criterion on the implementation of the mentioned point of the abovementioned programme are the reports on the activity of the RA Human Rights Defender as the National Preventive Mechanism. Therefore, in order to conduct the necessary studies in this regard, within the framework of the status given to the RA Human Rights Defender by the Optional Protocol to the 1984 UN Convention ''Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment'' the representatives of the National Preventive Mechanism visited 20 RA Police departments[204].

During the monitoring visits, the interrogation rooms of the Police Departments, their conditions and furniture, the video and audio recording systems in the Departments, as well as the functioning state of the technical means were inspected.

The abovementioned by-laws adopted by the RA Police Chief on the procedure of application of video recording systems and the issues related to their practical application became the subject of a special study.

According to the information received from the Police, the video recording systems have been launched since 1 May 2020 in 10 subdivisions of the RA Police: Yerevan City Headquarters, Kentron (central) Arabkir, Erebuni, Shengavit Departments of Yerevan City Headquarters as well as Ashtarak Department of the Aragatsotn District Headquarters, Kotayk Department of the Kotayk District Headquarters, Mush and Kumayri Departments of the Shirak District Headquarters, Bazoum Department of the Lori District Headquarters. According to the Police, in 9 out of 10 subdivisions equipped with a video interrogation system, 2 offices are equipped with such systems, and in one of them, 1 office is equipped.

As a result of the study, issues related to the furnishing of police interrogation rooms, installation of cameras, functioning of video and audio recording systems, interrogation procedures, as well as the practical application of relevant legal acts will be analyzed in the following sections of this chapter.

[204] Kentron, Arabkir, Shengavit, Erebuni Departments of Yerevan City Headquarters, Ashtarak Department of Aragatsotn District headquarters and Kotayk Department of Kotayk District Headquarters of the RA Police.

8.1. Furnishing of Police interrogation rooms and installation of cameras

Pursuant to part 1 of Article 5.1, of the RA Law ''On Police'', *the entrances and exits of the administrative buildings of the Police subdivisions are furnished with a video recording system and and the areas (offices) used for interrogation in the administrative buildings of the police subdivisions are furnished with video and audio recording system for the purposes of protection of human rights and the prevention and detection and identification of possible cases of torture, inhuman or degrading treatment.*

Part 2 of the same Article stipulates that t*he intended devices must be installed in such a way that it is possible to record the interrogations carried out by Police officers in accordance with the procedure established by the Criminal Procedure Code of the Republic of Armenia.*

In all the studied Police departments, two rooms were furnished with video recording systems, which at the same time served as an office. The cameras of the video recording systems were attached to the corner of the ceiling of the two offices. In the offices there were also microphones, which were either attached to the ceiling or placed next to the computer (they were removable).

The rooms, furnished with video recording equipment, simultaneously served as the offices of one, two or three police officers (investigators).

Referring to the issue of access to the keys of the mentioned rooms, it should be noted that different information was received in different departments of the Police. According to the information provided, in some departments the keys to the rooms are available only to the investigators working in the given room, in some, in addition to them, also to the head of the Police department.

As a result of the study, it was registered that the video recording systems installed in the two offices of the department could not be used in parallel due to their technical capabilities. Thus, it becomes impossible to simultaneously conduct two interrogations and record

According to paragraph 13 of Annex 1 to the Order No. 17-Լ of the RA Police Chief of March 31, 2020, *the view of the camera should include both the face of the interrogated person and the interrogator, as well as the images of the other persons present at the interrogation (representative, lawyer, psychologist, pedagogue, translator, etc.)*

The field of view of all the cameras installed in the interrogation rooms of the studied Police departments includes the face of the interrogated (respondents usually sit in front of the investigator's desk or on the chair next to the opponent), but their placement generally does not allow to fix the interrogator's face (investigators' chairs are on their backs to the camera), and in the Shengavit Police Department, the video field of view of the camera does not include the part of the office where the interrogator is sitting.

It should be noted that in addition to the abovementioned case, there were other "dark" corners in the Police interrogation rooms that were not included in the camera's field of view, which is worrying (Kentro, Shengavit, Erebuni and Kotayk Police Departments). At the same time, it should be noted that the furnishing of the interrogation room in the Arabkir and Ashtarak Police Departments and the location of the camera were such that the field of view of the camera did not include only the fireproof cabinet in the rooms, which is the best solution in such conditions.

According to the clarifications received from the RA Police, active measures are taken to envisage the full software of the video recording systems, that is, the possibility of conducting two simultaneous interrogations, as well as to change the position of the cameras in order to identify the interrogator.

8.2. Technical problems of video and audio recording systems

During the monitoring visits, a number of technical issues of the cameras and the video and audio recording systems were also identified.

Thus, according to the information provided, one of the two video and audio recording systems installed in the Kentron and Erebuni Police Departments was used. In the Kentron department, the second computer was not connected to the camera-microphone at all, and in one of the interrogation rooms of the Erebuni department there was no separate desk for the computer, the computer processor was placed on the floor and the screen (monitor) was on the processor. **This indicates that the video and audio recording systems installed in these rooms are not used at all.**

It should be noted that due to communication problems in the Ashtarak and Kotayk Police Departments, it was not possible to launch the systems during the visit, and when launching the video and audio recording systems in the Ketron and Erebuni Departments, the image in the cameras' field of view was not displayed on the computer screen. According to the information provided by the Police, the mentioned problems are frequent, which hinders the proper conduct of interrogations. The police officers also stated that they were either trying to resolve the issue in person by re-operating the system (intermediate server) installed in the department, or by connecting with the authorized representatives of the Police Headquarters or the Police Communication and Information Technology Department to resolve the issue through a central system (server)

During the conversations with the Human Rights Defender's representatives, the officers of the Kotayk Police Department stated that in addition to internet outages, there were frequent power outages in their department, and uninterruptible power supplies (UPS) of video and video recording systems did not allow the long-term usage of video recording systems, which in turn creates problems for the proper conduct of interrogations.

Police officers raised another issue related to the practical use of the microphone of the video and audio recording system. According to the latter, when launching the video and audio recording system, they do not have the opportunity to check whether the system performs proper voice recording, while of paragraph 3.2 (a) of the Annex to the Order No. 18-Լ of the RA Chief of Police of 31 March 2020 stipulates that *immediately before the interrogation, the police officer conducting it must turn on a separate switch for the microphone,* ***make sure that there is a sound and image*** *for the video recording.*

According to paragraph 4.5 of the Annex to the same Order, *during the interrogation the police officer, conducting the interrogation, must periodically follow and to make sure that the system works smoothly and the video and audio is going in accordance with the established procedure,* ***which is also not possible in the technical conditions of the current system***. Police officers stated that there were cases when the video and audio recording was over and sent to the Police Headquarters, but later it turned out that the interrogations were not recorded.

The Shengavit Police Department also registered problems with storing of videos recorded via the system. In particular, according to the information provided by the police officers, after completing the interrogation conducted by the video recording system and after pressing the "Finish" button, technical problems often arise during the storing of the recorded video material and the recorded video material is not saved. The police officers mentioned that there were cases when the same person had to be interrogated two or even three times due to the mentioned problem, which in turn caused additional obstacles and inconveniences. The mentioned is also problematic from the point of view of ensuring the rights of the person during the interrogation period defined by the RA Criminal Procedure Code.

During the monitoring, the Shengavit Police Department registered one software problem related to the video and audio recording system. In the columns of the computer programme of the video and audio recording system, after entering the conditional number of the criminal case, the conditional procedural status of the interrogated, the name and date of birth in Armenian and after pressing the "Finish" button, a text with unreadable letters appeared in the mentioned fields. According to police officers, such cases have been registered before.

In the explanations provided by the Police in connection with the mentioned issues, it was mentioned that the video and audio recording systems are innovations for the Police system, their operation itself implies certain technical-software corrections and reorganizations. According to the Police, the problems registered by the Human Rights Defender's representatives have been inventoried and appropriate measures are taken by the Police to exclude unreadable texts during the interrogation, to ensure constant communication, uninterrupted operation of computers, installation of uninterruptible power supplies (UPS), ensuring uninterrupted work of sound and image during interrogation, proper storing of the recorded video material.

8.3. Problems encountered during the interrogation in rooms furnished with the video and audio recording system

Problems encountered during the interrogation were also identified during the visits. During private interviews with police officers, the latter stated that in addition to the interrogator, a lawyer, psychologist, pedagogue, translator, etc. may be present during the video interrogation.

According to the information provided, in the presence of persons other than the interrogated person, the names of the latter are not presented during the video recording, while according to paragraph 5.1 of the Annex to the Order No. 18-Լ of 31 March 2020, *at the end of the interrogation, the police officer conducting the interrogation, announces that the interrogation is over,* ***aloud the name (s) of the person (persons) present at the interrogation,*** *the number of the criminal case, the date, the time of termination, the number of the interrogation room, as well as the place of the interrogation.*

Though according to the information provided, the participation of the abovementioned persons in the interrogation is fixed in a written form in the paper record of the interrogation, however, taking into account that they have completely different purposes (in one case it is a proper record of the investigation, and in the other – the State's positive obligation of prevention of torture and in case of video and audio recording, fixation of the identities of those present during the interrogation is crucial.

Paragraph 3.2 (c) of the Annex to the Order No. 18-Լ of the RA Police Chief of 31 March 2020 stipulates *that immediately before the interrogation, the police officer conducting it must inform the persons who will be present during the interrogation about the video and audio recording and clarify Article 5.1 of the RA Law ''On Police''and inform that it is carried out exclusively for the protection of the interests of the latter, for the purposes of protection of their rights, prevention and identification of possible cases of torture, inhuman or degrading treatment, to inform that the video is not subject to publication and amay be provided only to persons and case prescribed by law.*

During the monitoring visits, the Police officers informed that the persons participating in the interrogation were informed about their rights orally before the interrogation and the video recording starts

It should be noted that in such a situation, the fact that a person is aware of their rights is not recorded in any way and in practice it can turn into a complete formal procedure.

Therefore, the implementation of awareness is unacceptable in case of a video system that is not turned on yet an; in practice, it may not serve the proper purpose of the goal pursued.

During the visits, the police officers also raised the issue of interrogations conducted outside the administrative building of the Police. According to paragraph 2.2 of the Annex to the Order No. 18-Լ of

the RA Police Chief of 31 March 2020, *the video recording system is not activated or the video recording is prohibited during the interrogations outside the administrative buildings of the police subdivisions.*

According to the information provided, they are a large number, especially in the regional departments of the Police. Police officers of the Ashtarak and Kotayk Police Department stated that due to their distance and the novel Coronavirus (COVID-19) pandemic, persons living in the villages of the regions often do not want or are not able to visit the Police Departments, they have to interrogate them out of the administrative buildings of the Police department. According to the police officers, such interrogations are a large number and mainly conditioned by this fact, where is the low number of recorded interrogations in the regional departments. In response to the Human Rights Defender's inquiry, the RA Police provided information that the accounting of interrogations in the criminal cases conducted outside the administrative buildings of the Police departments are not carried out and it is not possible to give an exact number.

8.4. "Interruption" and "disruption" of video and audio recordings of interrogations

By the Orders No. 17-Լ and No. 18-Լ of the RA Chief of Police of 31 March 2020, the terms "interruption" and "disruption" of the video and audio recording of interrogations are envisaged, which are not properly interpreted and are not differentiated from each other.

During the visits, different police officers interpreted the terms defined by the abovementioned orders in different ways. The information provided was several officers stated that the term "disruption" implies the occurrence of technical problems with the video recording system during the interrogation, and "interruption" is the temporary termination of the interrogation, for example, due to the health condition of the respondent. Other Police officers noted that there was no difference between "interrupting" or "interrupting" of the interrogation.

It should be noted that there was no common approach in the Police departments on the issue of the need to draw up reports on the disruption or interruption of the interrogation. For example, in some police Departments, officers stated that a report was drawn up only in case of disruption of interrogations, while paragraph 21 of Annex 1 to the Order No. 17-Լ of the RA Chief of Police of 31 March 2020 stipulates that ***the interruption of video recording and the reasons are mentioned in the relevant protocol.***

The problem of differentiating the mentioned terms also arises from the ambiguities and contradictions of the legislative regulation.

Thus, paragraph 4.7 of the Annex to the Order No.18-Լ RA Police Chief of 31 March 2020, stipulates that in *the video and audio recording is stopped by the usual procedure in case of temporary suspension of the interrogation process for taking care personal needs, for interruption due to the status of the*

given criminal procedure which is the subject for the interrogation envisaged by the Criminal Procedure Code or for any other ***respectable reason.***

Pursuant to paragraph 6.2.4 of the Annex to the same Order, *in each case of non-performance of video and audio recordings or improper performance* ***(groundless, with separate parts, unnecessary interruptions or incomplete video and audio recording of interrogations)*** *during interrogations, the Chief of the given Police department or their substitute officer shall report immediately and the RA Police Headquarters is informed about that within 1 day.*

The mentioned order does not define whether a protocol is drawn up in the cases provided for in paragraph 4.7 of its Annex and which of the mentioned cases are considered "respectable". The order does not specify what the "unjustified" or "unnecessary" interruptions of the interrogation are.

During the monitoring, the abovementioned issues were also discussed with the Police officers, but the latter were not able to provide proper comments on the abovementioned regulations of the by-laws.

It is noteworthy that despite the numerous technical problems, only one of the 6 Police Departments studied (Erebuni Police Department) had a report on the failure of the video recorder during the interrogations in the Police subdivisions, in case of 782 conducted interrogations 111 of which were video and audio recorded[205]. According to the mentioned protocol, due to the failure of the video and audio recording system, it was not possible to enter the system, and the testimony of the victim was taken without video and audio recording.

8.5. Problems related to the practical implementation of the goal of preventing torture and other cases of ill-treatment and accessability to video and audio recording results

Paragraph 5 of Annex 2 to the Order No. 17-L of the RA Police Chief of 31 March 2020 stipulates that *video recorders (MVR) and video and audio materials in the database are provided to the interrogated person or his representative in accordance with the RA Law ''On Police'', to the body conducting the criminal proceedings, the Human Rights Defender within the framework of the discussion started under their jurisdiction, the members of the group of public observers in the places for keeping arrestees of the police system.*

Part 5 of Article 5.1 of the RA Law ''On Police'' stipulates *that video and audio recordings containing preliminary investigation data are provided in accordance with the Criminal Procedure Code of the*

[205] The data, according to the official statistics provided by the RA Police, covers the period from 1 May to 31 December 2020.

Republic of Armenia, only with the written permission of the body conducting the proceedings. The Police are responsible for obtaining the written permission of the body conducting the proceedings.

Pursuant to paragraphs 10 and 11 of Annex 2 to the Order No. 17-Լ of 31 March 2020, in case of submitting an application to receive a video and audio recordings upon request of the interrogated person, or their representative, Human Rights Defender or the members of the group of public observers in the places for keeping arrestees of the police system, the Police Headquarters clarifies the possibility of the existence of preliminary investigation data in the video and audio recording; if necessary, a written request is submitted to the relevant body conducting the criminal proceedings **to obtain written permission** in accordance with the RA Criminal Procedure Code. If the latter submits **a negative opinion** on the provision of the video and audio recording, **its provision shall be rejected.**

At the same time, part 9 of Article 5.1 of the RA Law ‘’On Police’’and paragraph 1.6 (b) of the Annex to the Order No. 18-Լ of the RA Police Chief of 31 March 2020 stipulates that **the video recordings are not a form of confirmation/registration of interrogation results of a criminal procedure of the and they are not attached to the materials of the criminal case.**

Thus, it is not clear from the abovementioned provisions why the Police should obtain permission for the video and audio recording from the body conducting the criminal proceedings, if the video and audio recording is not a form of confirmation/registration of interrogation results of a criminal-judicial procedure.

Besides, the order of the RA Police Chief does not present the grounds for refusing the provision of the video and audio recording, as well it does not reveal the term "negative opinion". In other words, the abovementioned order does not state how the opinion is expressed (in a written form or orally), or whether there is an obligation to justify it.

It should be emphasized that the abovementioned regulations directly contradict the purpose of installing video and audio recording systems in the Police departments in general.

Thus, part 1 of the abovementioned Article of the RA Law ‘’On Police’’ clearly indicates *the purpose of this legislative amendment, stating that the entrances and exits of the administrative buildings of the Police subdivisions are furnished with a video recording system and and the areas (offices) used for interrogation in the administrative buildings of the police subdivisions are furnished with video and audio recording system for the purposes of protection of human rights and the prevention and detection and identification of possible cases of torture, inhuman or degrading treatment.* At the same time, Part 2 of the same Article defines the list of persons and bodies who may have access to the mentioned video and/or audio recordings.

It should be noted that Article 5.1 of the RA Law ‘’On Police’’ and by-laws adopted on the basis thereof envisage that the non-provision of video and audio recordings for the purpose of prevention of torture

or other cases of ill-treatment to the bodies authorized by law to demand them, is illegal and does not follow the purpose of introducing video and audio recording systems, that is, to prevent torture and other forms of ill-treatment.

The purpose of maintaining the confidentiality of the preliminary investigation cannot be considered a justification for such a regulation, as Article 5.1 of the RA Law ''On Police'' itself has already restricted the scope of bodies having access to video and audio recordings.

Moreover, Article 342 of the RA Criminal Code provides for criminal liability for publishing the data of the preliminary investigation or investigation without the permission of the prosecutor, investigator or of the investigating person. The abovementioned regulations are sufficient to maintain the confidentiality of the investigation, so the discretionary, unreasonable restriction on the provision of video and audio recordings can in no case be considered lawful or justified.

It is noteworthy that in contrast to the subjects envisaged by part 4 of Article 5.1 of the RA Law "On Police" and paragraph 4 of Annex 3 to the Order No. 17-Լ of the RA Police Chief of 31 March 20, in case of a police officer becomes acquainted with the video and audio recording, they shall be limited to a warning on the liability provided by law for the publication of personal or preliminary investigation data.

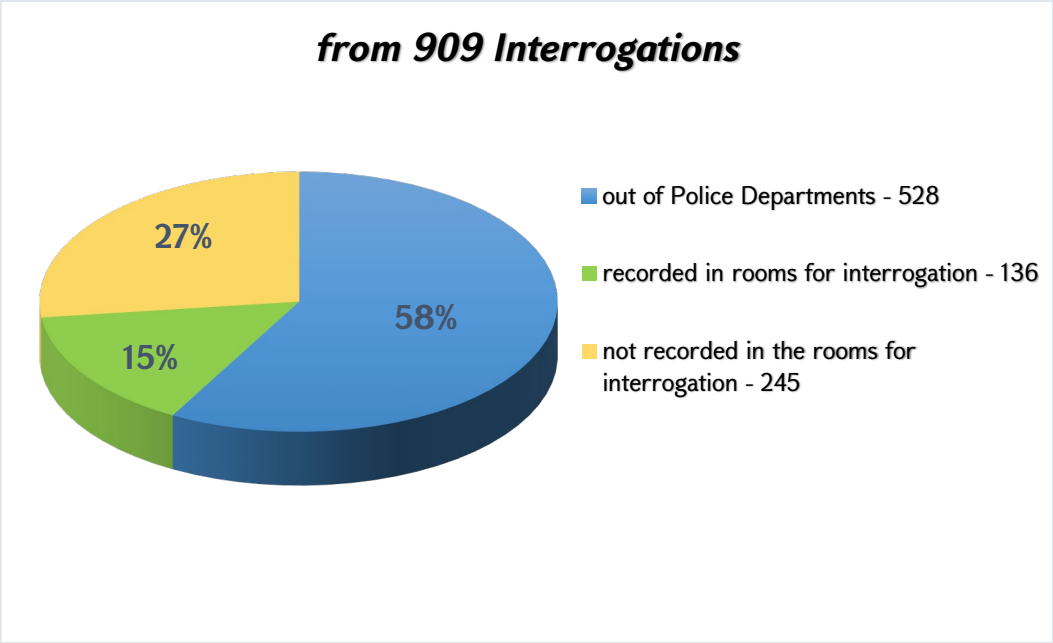
It should be noted that the regulations of Article 5.1 of the RA Law ''On Police'' and based on which the provisions of paragraph 10 of Annex 2 to the Order No. 17-Լ of the RA Police Chief'' of 31 March 2020, contradict the regulations of the RA Constitutional Law ''On the Human Rights Defender''.

Thus, part 1 of Article 9 of the abovementioned Constitutional Law stipulates *that state-local self-government bodies, organizations, their officials or representatives are obliged to provide the Human Rights Defender free of charge, in the shortest possible time, necessary materials, documents, information and clarifications and to support their work in other ways. Pursuant to, paragraph 2 of part 1 of Article 24 of the same Law, during the examination or discussion of the complaint, the Human Rights Defender is authorized to request or receive a complaint from a competent state or local self-government body or its official or a question on its own initiative. Necessary materials, documents, information or clarifications, as well as assistance during visits to these institutions.*

The abovementioned leads to the conclusion that the unlawful restrictions on the provision of video and audio recordings to the Human Rights Defender within the scope of the discussion initiated under their jurisdiction, may hinder both the proper exercise of the Human Rights Defender's powers and protection of human rights, prevention and detection of possible case of torture, inhuman or degrading treatment envisaged by Article 5.1 of the RA Law ''On Police''.

From the point of view of serving this purpose, the analysis of the statistical data of the interrogations and their video recordings raises serious concerns.

Thus, the analysis of the information on the results of the operation of video interrogation systems in the Police departments provided by the RA Police from 1 May to 31 December 2020 shows that only 245 out of 909 interrogations were conducted in the rooms furnished with video recording systems. Only 136 were recorded in the rooms for interrogation, while part 8 of Article 5.1 of the RA Law ‘’’On Police’’ stipulates that *in case of the areas used for interrogation (offices) of the administrative buildings of the Police departments are furnished with with video recording systems, it is prohibited to conduct interrogations in other areas (offices) not furnished with video recording systems.*



It should be noted that out of 909 interrogations, the majority of interrogations were with victims (279) and witnesses (206), and the number of interrogations with suspects was about 2.75% of the total number (25). In this context, the question arises as to what extent the video-recording of interrogations serves the purpose of human rights protection, prevention and identification of possible cases of torture, inhuman or degrading treatment.

The introduction of a video- recording system in Police departments is in itself a positive step towards the prevention of torture and ill-treatment, but in regulations of the current legislation, video- recording is limited to the scope of investigative action provided by the Criminal Procedure Code.

In this regard, the Human Rights Defender's firm position as the National Preventive Mechanism is that the introduction of a video -recording system in Police departments should first and foremost target the prevention of possible ill-treatment at the initial stage of civilian-police officer

contact. In other words, it should be used not only to ensure the rights of individuals within the framework of a criminal case, but also to serve as a mechanism to ensure the rights of a person without judicial status or in the status of a person brought or "invited" or in the absence of a criminal case initiated.

The Human Rights Defender has repeatedly raised the issue of the absence of clear regulation of the judicial procedure for taking explanations in criminal proceedings, and has raised the serious issues of ensuring the rights of the person giving an explanation in law enforcement practice.

In this regard, it should be noted that the number of explanations taken in the information provided by the RA Police was quite large. In particular, in the period from 1 May to 31 December 2020, a total of 10,812 explanations were taken by police officers, which, however, were not videotaped to extend the preventive mechanism provided for in Article 5.1 of the RA Law ‘’On Police’’ to interrogation only.

The mentioned systemic issue was raised by the Human Rights Defender during the round of discussions on the draft amendments to the RA Law ‘’On Police’’ and its discussions in the Government.

It is obvious that in the absence of legislative guarantees, in the absence of a clear judicial status, the risk of ill-treatment of persons, of not securing their rights is greater at this very early stage.

"Support to the Protection of Human Rights in Armenia" contains another regulation that hinders the implementation of the goal pursued by paragraph 2.3.1 of the European Union Budget Assistance Programme. *In case of refusal to be interrogated under the video recording of the subject, the interrogating officer announces loudly about the fact of refusal and the reasons for the refusal, so that it is videotaped, then ((...) the video recording is stopped.*

In this regard, it should be emphasized that in this case, the video recording of the interrogation of a person is aimed at protecting human rights, preventing possible cases of torture, inhuman or degrading treatment, revealing under what circumstances the restriction of this preventive tool by the person's will can not be justified.

From the point of view of human rights, in this case, the key is to be aware of the goals of the video recording and its pursuit.

Moreover, a person may often not realize the purpose of the video-recording, be concerned about the confidentiality of their personal information, or otherwise refuse the video and audio recording of the interrogation (for example, under the influence of a threat by a police officer). This can be facilitated by the improper notification of the police officer about the purpose of the video and audio recording, which has already been discussed above.

As a result, according to the information provided to the Human Rights Defender during the monitoring visits, there are many cases when individuals refuse the video and audio recording of the interrogation.

This is due to the huge difference in the number of interrogations and their video -recordings (only 136 out of 909 interrogations were videotaped).

Therefore, the regulations of paragraph 4.11 of the Annex to the Order No. 18-Լ of the RA Police Chief of 31 March 2020 give rise to concerns, limiting the possibility of applying the preventive mechanism introduced by Article 5.1 of the RA Law ‘’On Police’’.

Summing up the abovementioned, it should be emphasized that in order to prevent torture and other cases of ill-treatment, the video-recording of citizen-police officer interaction case should not be limited to interrogations.

Any movement of citizens in police departments and interactions with police officers should be videotaped. Only a very small number of interrogations, mainly video -recordings of interrogations of persons with victim status, can not ensure the fulfillment of the State's positive responsibility to prevent torture.

The prevention of various forms of ill-treatment is not facilitated by the requirement of obtaining the consent of the person for the implementation of the video- recordings, as well as by the numerous legislative issues discussed in this analysis.

According to the clarifications received from the Police in connection with the abovementioned issues, after holding a joint discussion with the Legal Department of the RA Police, it is envisaged to make necessary amendments in the existing by-laws within the framework of the ongoing reforms in the Police. In particular, it is envisaged to regulate the by-laws contradicting Article 5.1 of the RA Law ‘’On Police’’ through amendments, as well as to make a subject of discussion the issues related to of taking explanations from persons under the video-recording, restrictions on the provision of videos and audio recordings to the Human Rights Defender in the framework of the discussions started under the jurisdiction, issues related to the movement of citizens in police departments and the video-recording process of interaction with police officers.

The RA Police also noted that within the framework of the practical-methodological assistance provided during the 2021 complex inspections, it is planned to carry out relevant awareness-raising activities among the Police officers in connection with the operation and use of video-recording systems introduced in the Police departments. In addition, the United Nations Development Programme (UNDP) is planning to conduct interrogative training for police officers with the involvement of international experts.

The implementation of the planned awareness-raising activities is a necessary and welcome step, the practical implementation of which will be under the Human Rights Defender's attention and monitoring.

CHAPTER 9. LEGAL BAN ON TORTURE, INHUMAN OR DEGRADING TREATMENT, OR PUNISHMENT, AND ITS PRACTICAL ENFORCEMENT

The internationally recognized absolute prohibition on torture is reflected in a number of key human rights instruments, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the 1984 UN Convention ‘’On Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’’, in the European Convention for the Protection of Human Rights and Fundamental Freedoms, etc.

The absolute prohibition of torture is enshrined in domestic law. According to Article 26 of the Constitution of the Republic of Armenia, **no one may be subjected to torture, inhuman or degrading treatment or punishment, corporal punishment is prohibited, and persons deprived of their liberty have the right to humane treatment.**

Article 309.1 of the RA Criminal Code establishes responsibility for torture. For the purposes of this Article, *torture is the intentional infliction of severe physical pain or mental suffering on the part of an official or other person authorized to act on behalf of a public official or a public body, in order to obtain information or confession from that or a third person or to commit an act. for the purpose of punishing a person who has committed or is suspected or accused of committing such or a third person, as well as for intimidating or forcing a person or a third party to commit or refrain from committing any act or for any reason based on discrimination of any kind.*

Part 1 of Article 341 of the RA Criminal Code establishes liability for forcing a judge, prosecutor, investigator or investigative body to give testimony or explanation or a false conclusion or make a wrong translation, and part 2 of the same Article defines, as a corpus delicti, committing the same act that was combined with torture. At the same time, Article 309 of the RA Criminal Code (transfer to official powers) envisages the use of violence, weapons or special means as an aggravating circumstance.

Within the framework of the National Preventive Mechanism, the Human Rights Defender constantly implements both the legislative and practical situation regarding the absolute prohibition of torture in the country. In the Annual reports on the activities of the Human Rights Defender as the National Preventive Mechanism, such as 2017[206], 2018[207] and 2019[208], he stated that there are problems from the point of view of the subject of torture in the sense of the RA Criminal Code.

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[206] See: https://ombuds.am/images/files/59297c7b4276c9dbf19cd1f1cfcd92a8.pdf webpage, as of 31.03.2021, pages 120-127.

[207] See: https://ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf webpage, as of 31.03.2021, pages 310-319.

[208] See: https://ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpage, as of 31.03.2021, pages 370-381.

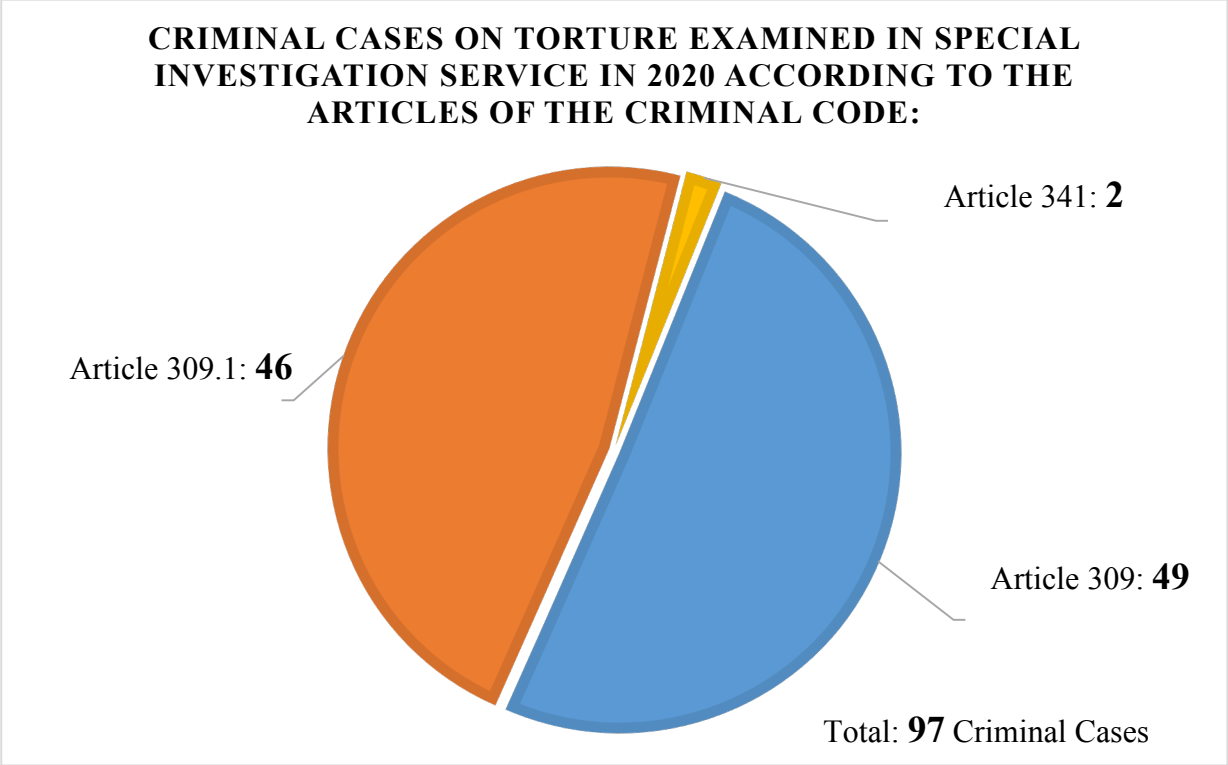
Thus, Article 309.1 of the RA Criminal Code is included in the chapter on crimes against the State service, where most of the crimes are characterized by a special subject, an official. Part 3 of Article 308 of the Code provides for the definition of an official, according to which officials are:

1) *Persons performing the functions of a representative of the government permanently, temporarily or with a separate authority;*
2) *Persons in state bodies, local self-government bodies, their organizations, as well as in the Armed Forces of the Republic of Armenia, in other armies of the Republic of Armenia, in military units, permanently, temporarily or with separate authority, carrying out organizational-managerial, administrative functions*.

On the other hand, persons deprived of their liberty may be subjected to torture or other ill-treatment by a person who is not an official within the meaning of domestic law, which is also torture or ill-treatment by international standards. For example, in a psychiatric organization, a person with a mental health problem may be ill-treated, for example, by a hospital attendant or medical personnel who performs neither representative nor organizational-managerial or administrative funct**ions,** and therefore cannot be be the subject of corpus delicti of torture by the domestic law**. In such cases, the act will be considered a crime against human life or health instead of torture, which, however, does not follow from the absolute prohibition of torture.** This is one of the main reasons why it is not possible to get a clear statistical picture of all cases of torture and ill-treatment in the country. Thus, according to the information provided by the RA General Prosecutor's Office, in 2020, 1 case of violence with regard to persons kept in psychiatric organizations by employees of psychiatric organizations was registered, in connection with which part 1 of Article 112 of the RA Criminal Code (intentional infliction of grievous bodily harm), a criminal case was initiated.

Within the framework of the National Preventive Mechanism, the statistical data on the reports received by the competent bodies in accordance with part 2 of Article 309, Article 309.1, part 2 of Article 341 of the RA Criminal Code, and criminal cases initiated in connection with them are constantly studied. Thus, in 2020, 97 criminal cases on torture were examined by the investigators of Special Investigation Service[209].

[209] According to the information received from the RA Special Investigation Service, as of 03.02.2021.



According to the statistical data provided by the Special Investigation Service, in 2020, 49 cases were examined in accordance with part 2 of Article 309of the RA Criminal Code, of which:

- 4 criminal cases were sent to court with indictments with regard to 7 persons;
- Proceedings in 22 criminal cases were dismissed;
- Proceedings in 8 criminal cases were suspended;
- 5 criminal cases were added to another criminal case;
- 5 criminal cases were sent to another body according to the investigative subordination;
- The preliminary investigation of 5 criminal cases continued.

According to the features of Article 309.1 of the RA Criminal Code, 46 cases were examined in 2020, 55 in 2019, and 50 in 2018.

The course of the cases investigated in the Special Investigation Service in 2018, 2019 and 2020 according to the features of Article 309.1 of the Criminal Code			
Action	**2018**	**2019**	**2020**
He was sent to court with an indictment	1	3	4
The proceedings have been dismissed	**33** ***(66%)***	**34** ***(61.8%)***	**22** ***(44.9%)***
The proceedings have been suspended	4	6	8
Added to another criminal case	1	5	5
Sent to another body according to the investigative subordination	2	-	5
The preliminary investigation is underway	9	7	5
Total number of the examined cases:	**50 criminal case**	**55 criminal case**	**49 criminal case**

According to features of Article 341 of the Criminal Code, 2 cases were examined in 2020, the proceedings of which were dismissed.

It should be noted that from the moment of criminalization of torture, from 9 June 2015 to 1 February 2021, **193 criminal cases** under Article 309.1 of the RA Criminal Code were examined by the investigators of the Special Investigation Service, of which:

- **6 criminal cases against 11 persons were sent to court with indictments;**
- **The proceedings in 139 (72%) criminal cases were dismissed;**
- **Proceedings in 22 (11.4%) criminal cases were suspended;**
- **15 criminal cases were added to another criminal case;**
- **7 criminal cases were sent to another body;**
- **The decision to initiate 2 criminal cases was overturned;**
- **The preliminary investigation continued in only 2 criminal cases.**

Given the abovementioned statistical data, it should be emphasized that the absolute prohibition of torture implies a positive obligation on the part of the State to conduct an effective investigation into each case of torture and other allegations of ill-treatment. Under Article 12 of the 1984 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, (…) *the State shall ensure that its competent authorities conduct an immediate and impartial inquiry when there is sufficient reason to believe that torture was used in any territory within its jurisdiction.*

Regarding the effective investigation, the European Court of Human Rights has repeatedly stated *in its position that, in terms of Article 3 of the European Convention, it is the positive obligation of the State to conduct an effective and thorough investigation of cases of torture*[210]*. The court emphasized that the examination of complaints of ill-treatment should be thorough and complete. The competent authorities should take all possible steps to establish evidence of what has happened*[211].

The case law of the European Court of Human Rights has revealed the following basic criteria for the effective investigation of cases of torture and ill-treatment: independence and impartiality, integrity, urgency, victim involvement and public public.

Such principles and criteria are contained in the Minnesota Protocol on the Investigation of Possible Cases of Illegal Death[212]. These are speed, efficiency and meticulousness, independence and impartiality, transparency.

In a number of cases[213] against Armenia, the European Court of Human Rights has found that the State has not fulfilled its positive obligation to prohibit absolute torture by conducting an effective investigation which has led to a procedural violation of Article 3 of the European Convention. In some cases, the court found that the investigation was not carried out with the necessary urgency (measures were taken to obtain evidence, to carry out medical examinations after some time after the alleged ill-treatment)[214]. For example, in the case of *''Matevosyan v. Armenia''* the court stated that *the body*

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[210] See: Judgement made on the 28th of October, 1998 on the case of *''Assenov and Others v. Bulgaria'',* Application no. 24760/94, Para. 117; Judgement made on the 18th of December, 1996 on the case of *''Aksoy v. Turkey''*, Application no. 21987/93, Para. 98.

[211] See: Judgement made on the 11th of July, 2006 on the case of *''Boicenko v. Moldova''*, Application no. 41088/05, Para. 123.

[212] See: http://www.ohchr.org/Documents/Publications/MinnesotaProtocol.pdf webpage, as of 31.03. 2021.

[213] See: Judgement made on 31st of March, 2015 on the case of *''Nalbandyan v. Armenia''*, Application no. 9935/06, and no. 23339/06; Judgement made on the 17th of March, 2016 on the case of *''Zalyan and others v. Armenia'',* Application no. 36894/04 and no. 3521/07; Judgement made on the 14th of September, 2017 on the case of *''Matevosyan v. Armenia''*, Application no. 52316/09; Judgement made on the 19th of July, 2018 on the case of *''Hovhannisyan v. Armenia''*, Application no.18419/13, etc.

[214] See; Judgement made on the 31st of March, 2015 on the case of *''Nalbandyan v. Armenia''*, Application no. 9935/06, and no. 23339/06; Judgement made on the 17th of March, 2016 on the case of *''Zalyan and Others v. Armenia''*, Application no.

conducting the proceedings did not order a medical examination immediately after receiving the complaint, which may have led to the loss of relevant evidence [215].

In the light of the abovementioned statistical data on the investigation of a number of cases of torture against Armenia, and judgments made by the European Court of Human Rights, it is necessary to take the necessary measures to conduct an effective investigation of cases of tortureby demonstrating proper diligence and takiing into account International examination standards. Such an approach would not only identify cases of torture and ill-treatment, but also help prevent other manifestations of torture and ill-treatment, which is extremely important in terms of an absolute prohibition on torture.

From the point of view of effective investigation of a case of torture, as well as from the point of view of prevention of torture and ill-treatment, it is possible to introduce a video-recording system in places of deprivation of liberty (including Police departments), as reflected in UNHCR in the final observations of the periodic report of UN Committee against Torture of 26 January 2017 [216] on Armenia. According to paragraph 12 of the abovementioned observations, the Committee against Torture called on the state to take legislative and other necessary measures to make a video-recording of interrogations at Police departments and places of deprivation of liberty.

In this regard, in 2019, the Ministry of Justice of the Republic of Armenia developed a draft law envisaging amendments to the RA Law ''On Police'', which proposed the introduction of a video - recording system in the Police departments. The mentioned draft law was adopted by the RA National Assembly on the 13th of December, 2019. According to the new amendments, part 1 of Article 5.1 of the RA Law ''On Police'' stipulates that *in order to prevent possible cases of, torture, inhuman or degrading treatment and protection of human rights, the entrances and exits of the administrative buildings of Police departments are furnished with video-recording system, and areas (offices) used for interrogation in the administrative buildings of Police departments with video and audio recording systems.*

While acknowledging that the introduction of a video- recording system in the police force is an effective measure to prevent torture and ill-treatment, the proposed solutions are nonetheless incomplete.

36894/04 and no. 3521/07; Judgement made on the 14th of September, 2017 on the case of *''Matevosyan v. Armenia''*, Application no. 52316/09, etc.

[215] See: Judgement made on the 14th of September, 2017 on the case of *''Matevosyan v. Armenia''*, Application no. 52316/09, Para. 80.

[216] See: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/ARM/CO/4&Lang=En webpage, as of 31.03.2021.

The point is that the video -recording in the areas used for interrogation in the administrative buildings of the Police departments is limited to the interrogation within the framework of the investigative action envisaged by the RA Criminal Procedure Code. **However, the Human Rights Defender has repeatedly stated that in our country the vicious practice of bringing or "inviting" persons without criminal-judicial status to police departments (including during rallies) remains widespread. As a result, these individuals are actually deprived of their liberty, but due to absence of status, they are not endowed with the necessary rights and guarantees due to their deprivation of liberty (see Chapter 8 of this report for more details).**

In this regard, it should be noted that in the Annual reports on the activities of the Human Rights Defender, on the basis of individual complaints, the issue of the absence of clear regulation of the judicial procedure for obtaining an explanation within the criminal proceedings was raised. Due to that, cases of non-ensuring the rights of the person who gave an explanation in the legal practice were identified.

It is obvious that in the absence of legislative guarantees, in the absence of a clear judicial status, ill-treatment of a person, the latter's vulnerability and the risk of non-ensuring the rights are greater at this early stage. Restrictiing the video-recording of the interrogations with only persons having criminal-judicial status cannot fully address the issue of preventing torture or other forms of ill-treatment. Therefore, in this regard, the prevention of possible ill-treatment in the first phase of interaction between police officer and a citizen is of key importance.

It is also very important to provide the necessary training for the competent state bodies on torture and other manifestations of ill-treatment, which will increase the level of awareness of state representatives in the field. This is a strong guarantee of both prevention of torture and effective investigation. The Human Rights Defender's Office is also reviewing training programmes on torture and other forms of ill-treatment taught in relevant educational institutions of the relevant state authorities.

When discussing the absolute prohibition of torture, it is necessary to address the issue of compensation («Redress») for victims of torture. Article 14 of the 1984 UN Convention ‘’Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’’ provides that *each State Party shall ensure in its legal system the right to a fair and adequate reparation for the victim of torture. The interpretation of this Article of the Convention emphasizes that the term compensation («Redress») includes the official acknowledgment by the State that a person has been caused damage. According to the same commentary, the civil procedure for compensation should be available regardless of the outcome of the criminal proceedings.*

According to the interpretations, although the definition of Article 14 of the Convention does not explicitly include inhuman or degrading treatment, the institution of fair and adequate compensation is applied to them [217].

Paragraph 2 of part 1 of Article 162.1 of the RA Civil Code stipulates *that a person, and in case of his death or incapacity, their spouse, parent, adoptive parent, child, adopted child, guardian, trustee have the right to claim non-pecuniary damage compensation if the criminal prosecution body or the court has established that as a result of the decision, action or inaction of a state or local self-government body or its official, violation of* ***the right not to be subjected to torture, inhuman or degrading treatment or punishment,*** *as guaranteed by the Constitution of the Republic of Armenia and by the Convention '' On the Protection of Human Rights and Fundamental Freedoms"*

The procedure and the conditions for compensation for non-pecuniary damage caused by violation of fundamental rights, including torture, inhuman or degrading treatment or punishment are defined by Article 1087.2 of the RA Civil Code, according to Part 2 thereof, *non-pecuniary damage is subject to compensation regardless of the property damage subject to compensation*. According to part 3 of the same Article, *non-pecuniary damage is subject to compensation, regardless of the guilt of the official in causing the damage.*

Part 9 of the mentioned Article stipulates *that the claim for non-pecuniary damage can be submitted to the court both with the claim to confirm the violation of the right defined by part 2 of Article 162.1 of the Code, from the moment the violation is known to the person. and within one year after the entry into legal force of the judiciary act confirming the violation of that right and often the decision of the investigator or prosecutor not being overturned or not appealed to that person. or refusal to initiate a criminal case on non-justifying grounds, or not to prosecute or dismiss the criminal case or to terminate the criminal prosecution.to terminate the criminal proceedings or terminate the criminal prosecution, becomes known to that person.*

It follows from the abovementioned that the possibility of reparation is intended not only for torture, *but also for non-pecuniary damage resulting from inhuman or degrading treatment or punishment. Inhuman or degrading treatment or punishment,* unlike torture, is not criminalized under domestic law. In some cases, some of its manifestations may contain features of crimes with regard to a person. **The problem is more complicated when the manifestation of inhuman treatment does not contain the features of a criminal act, for example, the person deprived of liberty was not provided with the necessary medication on time due to its absence.**

[217] See: the UN Handbook on State Responsibilities under the Convention against Torture https://www.apt.ch/content/files_res/A%20Handbook%20on%20State%20Obligations%20under%20the%20UN%20CAT.pdf webpage, of 31.03.2021, pages 55-56.

Persons deprived of their liberty constantly address numerous similar complaints to the Human Rights Defender, and there are even decisions on whether there are violations of human rights or freedoms. The guilt of a specific official (head of a Penitentiary Institution, doctor) may be absent, but failure to provide the necessary medication may lead to a violation of a positive obligation of the State and inhuman treatment of a person deprived of liberty. This is justified by the fact that in the case law of the European Court, in contrast to the inhuman treatment of a person subjected to torture, the intent of an official is not made mandatory.

The Human Rights Defender has repeatedly raised the issue of how the fact of inhuman or degrading treatment must be confirmed. Based on the content of part 10 of Article 1087.2 of the RA Civil Code, together with the claim for compensation, a claim may be submitted to the court to confirm the fact of violation of the right to be subjected to inhuman or degrading treatment or punishment. It turns out that a court hearing a civil claim must consider whether an inhuman or degrading treatment of a person has been found before addressing the issue of compensation. However, it is not clear how the court will establish the fact of inhuman or degrading treatment or punishment by a person when their notions have not been enshrined in domestic law. Moreover, domestic law does not define any principle, standard or guideline for distinguishing between torture and inhuman or degrading treatment or punishment, which is also a matter of concern.

From the point of view of the Institute of Compensation, it should be noted that the RA Civil Code was amended with Article 1087.3 on the 16th of December2016, which defines the concept, content, procedure and conditions of compensation to victims of torture. According to Part 2 of the mentioned Article, *the compensation provided to the victims of torture includes the compensation of material, non-material damages (compensation) suffered by those persons, the right to rehabilitation, and according to Part 3, the right to rehabilitation of the victim to torture includes the right to receive medical assistance and service compensation, as well as the right to free psychological and legal services. Psychological services are provided within a reasonable time after the alleged victim has made a statement about torture, taking into account the legitimate interests of the victim. Psychological services are provided through traditional and alternative intervention methods, taking into account the individual needs of the victim.*

By the RA Government Decree No. 1367-Ն of 26 of October 2017[218], defined the procedure and conditions for using the psychological services by victims of torture. According to paragraph 3 of the Annex to the mentioned Decree, *psychological services for victims of torture are provided by a professional center providing psychological services, which must have at least 3 qualified psychologists,*

[218] RA Government Decree No. 1367-Ն "On Defining the Procedure and Conditions for Using the Psychological Services by Victims of Torture" of 26 October 2017.

at least three years of work experience, and *the Ministry of Justice of the Republic of Armenia signs a contract with the center for the provision of psychological services.*

The Armenian Rehabilitation Center for Victims of Torture was launched in Yerevan in February 2019, under a sub-grant programme provided within the framework of the joint programme implemented by Helsinki Citizens' Assembly Vanadzor Office in cooperation with the Georgian Center for Psychosocial Rehabilitation of Victims of Torture (GCRT) funded by the European Union. The purpose of the center is to provide comprehensive physical, psychological and social assistance to survivors of torture, cruel, inhuman or degrading treatment or punishment and their family.

However, the center is not funded by the state, which is problematic, as its existence is conditioned by the funding provided under the relevant programme. Meanwhile, the introduction of the institution of compensation for victims of torture in domestic legislation presupposes its permanent provision at the expense of the state.

In the context of absolute prohibition of torture, it is inadmissible to exempt persons committed an act of torture from criminal liability due to the statute of limitations, amnesty or pardon.

According to the case law of the European Court, in all cases *where a representative of the State is sentenced for torture or ill-treatment, it is crucial that in terms of achieving the goals of "effective measure**" the criminal proceeding and punishment of the person be not restricted by the statute of limitation, and is impermissible to grand amnesty or pardon to such persons***.[219].

With regard to this, the Concluding observations on the fourth periodic report of Armenia, 26 January 2017, of the UN Committee against Torture *urges to exclude the State party to repeal the statute of limitations for the crime of torture or other acts amounting thereto (...). The State party should also ensure that pardon, amnesty and any other similar measures leading to impunity for acts of torture are prohibited*

In connection with the issue, it is welcome that the Ministry of Justice of the Republic of Armenia has developed a draft amendment to the Criminal Code of the Republic of Armenia submitted to the Human Rights Defender on the 1st of February, 2019, which proposes to impose a statute of limitations for torture amnesty. However, this change has not been adopted yet and the issue raised remains relevant.

Given the high public risk of torture for a civilized society, the absolute prohibition of internationally defined torture, the State must take clear steps to respond to cases of torture, bring those responsible to justice as a result of an effective investigation, and prevent torture in the country.

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[219] See: Judgement made on the 2nd of November, 2004 on the case of *''Abdulsamet Yaman v. Turkey''*, Application no. 32446/96, Para. 55.

CHAPTER 10. LEGISLATIVE ISSUES

10.1. The system of early conditional release or commuting the sentence to a more lenient form of punishment for the remaining portion of the sentence

Procedures for early conditional release from serving a sentence are functioning in Penitentiary Institutions in different countries. At the end of this procedure, which requires an individual approach, convicted persons who no longer need to be detained shall be released from serving the remainder of their sentence. The system of early conditional release from serving a sentence in practice serves as an incentive, aimed at helping the convicted person to transition to a law-abiding life in society. It, in turn, will help ensure public safety and reduce crime.

In the Republic of Armenia, the system[220] of early conditional release from serving a sentence or commuting the unserved part of the sentence to a more lenient form of punishment has undergone changes during years, which were mainly conditioned by the legislative-practical problems existing in the previous systems. For example, only in different periods of 2018, there were a total of 3 types of systems. The difference between them was mainly related to the subjects involved in the process, the decision-making bodies, the decision-making procedure, etc. The Human Rights Defender's 2018 Annual report on the National Preventive Mechanism provides a detailed overview of each model[221] of the System functioning in the reporting year. During 2020, the regulations of the System entered into force at the end of 2018.

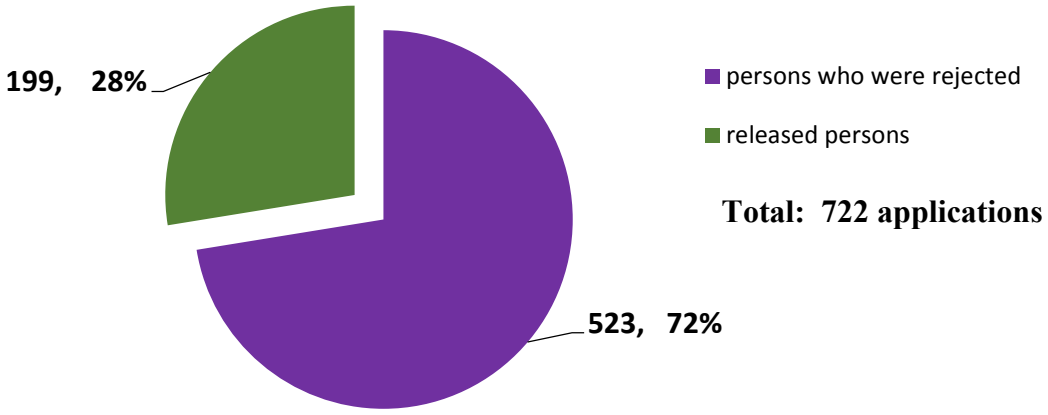
Within the framework of the system analysis, among others, the statistical data presented by the RA Ministry of Justice were studied. According to the data, in 2020, **722 convicted persons** applied for early conditional release from serving a sentence, and **199** were released on early conditional basis from serving a sentence. **This is 28% of the total number of applications submitted[222].**

[220] Hereinafter referred to as the System.

[221] See: https://www.ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf webpage, as of 31.03.2021, pages 320-332.

[222] Not all applications submitted by 2020 may be considered in the same year, as the statutory deadline expires next year. It is possible that not all the reports of the rejected and released convicted persons were submitted in 2020, but in the year preceding it.

STATISTICAL DATA
on persons, who submitted an appeal or have been released for early conditional after serving their sentence in 2020

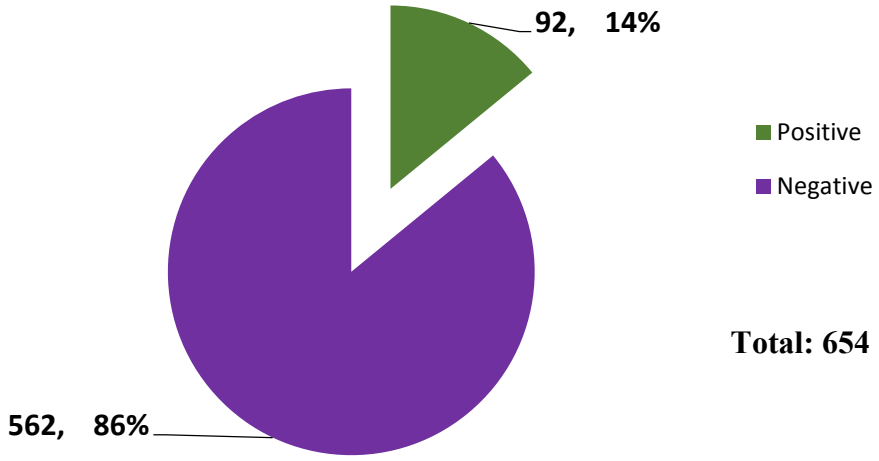


The current system regulations stipulate that a convicted person has the right to submit a written application to the administration of the Penitentiary Institution not earlier than 3 months before the expiration of the statutory part of the sentence in order to be released on early conditional release from serving a sentence or to commute the unserved part of the sentence to a more lenient one. Within 3 working days from the moment of receiving the application, the administration of the institution notifies the Probation Service[223] of the Ministry of Justice of the Republic of Armenia about it and the central body of the Penitentiary Service. The latter, within 80 days after receiving the official notification, compile and submit to the Penitentiary Institution the proper behaviour of the convicted person, as well as the reports on the circumstances assessing the possibility of them committing a new crime. These are documents analyzing the circumstances around early conditional release from serving a sentence of a convicted person, commuting the unserved part of the sentence to a more lenient type of sentence, which lead to a ***positive*** or ***negative*** conclusion.

According to the statistical data provided by the Ministry of Justice of the Republic of Armenia, the Service has prepared **654 reports** on the notifications received by the Central Body of the Penitentiary Service in 2020, **of which 92 are positive** and **562 are negative.** Positive reports make up 14% of the total.

[223] Hereinafter referred to as the Probation Service in this Subchapter.

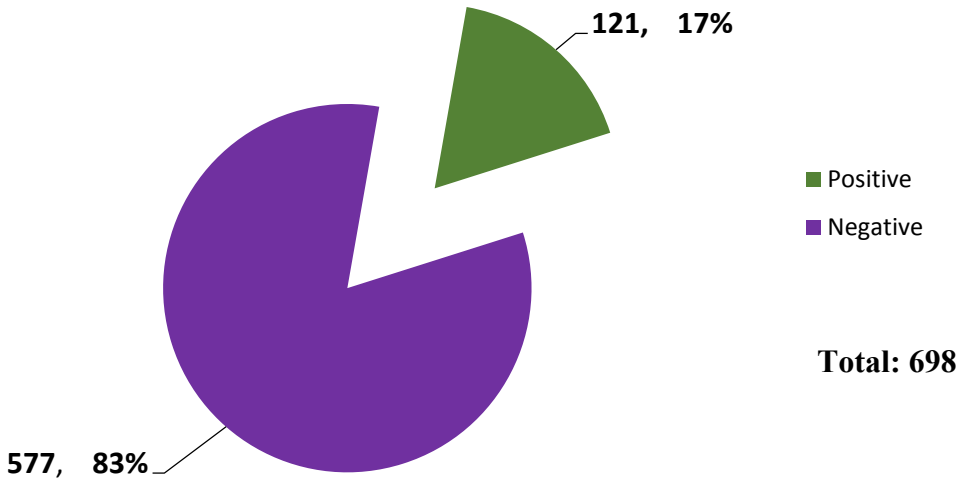
STATISTICAL DATA
on the reports provided by the Penitentiary Service in 2020



The presented data show that in the reports of the Penitentiary Service, the number of negative reports assessing proper behaviour of the convicted person, as well as the circumstances assessing the possibility of committing a new crime is high.

Based on the notifications received by the Probation Service, in order to submit a report on early conditional release from serving a sentence or commuting of the unserved part of the sentence to a more lenient form of punishment, the Service provided **698 report**s to the administrations of Penitentiary Institutions in 2020, **of which 121 were positive and 577 were negative.**

STATISTICAL DATA
on the reports provided by the Probation Service in 2020



Thus, as statistics show, the number of positive reports submitted by the Probation Service is also not large (**17%** of the total). In this regard, it should be noted that the overall indicator of positive reports of the Probation Service has also decreased compared to the previous year (in 2019 it was 23%).

It should be noted that the previously established legislative and practical issues regarding the system of early conditional release from serving a sentence or commuting the unserved part of the sentence to a more lenient form of punishment remain unresolved.

1.Thus, according to the 1st sentence of part 8 of Article 115 of the RA Penitentiary Code, *if the reports of the Penitentiary Service and Probation Service are negative, then the administration of the institution executing the sentence, shall have three working days after the expiration of the statutory part of the sentence imposed on the convicted person to* ***make a decision not to submit the issue of early conditional release of the convicted person from serving a sentence or to commute the unserved part of the sentence to a more lenient form of punishment.*** This provision envisages a direct legislative

requirement for the head of the Penitentiary Institution not to submit the issue to the court, it turns out that in case of submitting negative reports by the penitentiary Probation service, the convicted person is automatically deprived of the opportunity to be released on early conditional release from serving a sentence.

It is noteworthy that according to the logic of the current System, service reports are professional, advisory documents, which aim to support the final decision-making body, the court. This means that they can not directly or indirectly deprive a person of the exercise of their right. However, under the current regulations, in addition to their main purpose, the abovementioned documents analyzing the necessary circumstances, in addition to presenting a positive or negative conclusion, also have an external impact on a person's right to early conditional release from serving a sentence or commute their sentence to a more lenient form. As mentioned above, depending on their outcome, the further process of discussing the issue of early conditional release from serving a sentence of the convicted person is determined.

Moreover, the 2nd and 3rd sentences of part 8 of Article 115 of the Penitentiary Code stipulate that in the case provided for in this part*, the administration of the Penitentiary Institution shall notify the convicted person in a written form about the the procedure of re-discussing the issue of early conditional release from serving a sentence or commuting the unserved part of the sentence to a more lenient form of punishment, as well as the right to appeal the decision of the administration of the penitentiary institution. The decision may be appealed to the Court of First Instance within ten days after receiving the decision.* **That is, the act subject to appeal is the decision of the head of the Penitentiary Institution.**

At first glance, it seems that the right of a person to access to a court is ensured and the final ruling of the court on early conditional release from serving a sentence or commuting the unserved part of the sentence to a lenient form of punishment. as the only competent body However, in case of negative reports, this structure is not provided, **as in case of negative reports of Penitentiary and Probation Services, the administration of the Penitentiary Institution, by law, makes a decision of rejection, which the convicted person can appeal in court.**

It is noteworthy that there is no legal requirement for the validity of this act. Therefore, the decision of the head of the institution, if both reports are negative, is of a purely technical nature, recording the final result of the process. In these circumstances, it is not clear what will be the subject of discussion by the court in terms of content in case of appealing that act, the justification of the decision itself, there isn’t this kind of requirement on the legal level or the issue of early conditional release of the person from serving a sentence. In the first case, the fact that the head of the institution fulfills the direct legislative requirement is problematic, and in the second case, the subject of discussion should be "advisory" reports, which, according to the legislation, have no external influence, are not an administrative act.

Taking into account the abovementioned, in connection with the decision made by the head of the Penitentiary Institution in case of two negative reports, it is necessary to emphasize two main issues.

1) **From the point of view of the mechanism of the rights of a person to early conditional release from serving a sentence, the reports of the Penitentiary and Probation Service are crucial for early conditional release from serving a sentence, but are not subject to appeal;**
2) **The subject of the appeal is the decision of the head of the institution, which has no substantive justification for the conditional early release of the person from serving the sentence, but is based exclusively on the negative reports of the Penitentiary and Probation Service.**

2. Another noteworthy problem is that the issues of early conditional release from serving a sentence under the penitentiary legislation, commuting the unserved part of the sentence to a lenient form of punishment are considered in unity, they are not assessed separately by the competent bodies. Thus, according to part 1 of Article 114, of the RA Penitentiary Code, *early conditional release from serving a sentence may be applied or the unserved part of the sentence may be commuted to a lenient form of punishment if the convicted person meets the requirements set by the Criminal Code of the Republic of Armenia.* Therefore, a person has **the right of early conditional release from serving a sentence**, as well as **to commute the unserved part of their sentence to a lenient one**. In the conditions of the current regulations, as well as according to the logic of the institutions, their simultaneous application is impossible. It is necessary to make each of them a separate subject of discussion, to give a separate assessment.

In this regard, it should be emphasized that the Penitentiary and Probation Services submit reports on the circumstances provided for in Article 76 1. 1.1 and 1.2 of the Criminal Code, which must lead to a **positive** or **negative** conclusion. Moreover, Form 6 and Form 7 [224]provided for in Annex 2 to the Order of the RA Minister of Justice envisages the templates of the reports provided by the Penitentiary Service and the Probation Service, respectively. The concluding part of the report template of the Probation Service states that it is expedient (not expedient) to present the convicted person on parole (commuting the unserved part of the sentence to a lenient form of punishment). It should be noted that the issue of commuting the unserved part of the convicted person to a lenient form of punishment in the template is

[224] Order No. 336-Լ "On Approving the Templates of Documents Presented for Replacement Issues of Commuting the served Part of the Sentence to a more Lenient Form of Punishment and Procedure for Compiling Reports on Early Conditional Release from Serving a Sentence or Commuting the Unserved Part of the Sentence to a More Lenient Form of Punishment by the Penitentiary and the Probation Services of the Ministry of Justice of the Republic of Armenia " of the Minister of Justice of the Republic of Armenia of 12 July 2018.
Hereinafter referred to as the Order.

not only discussed separately in the report, but is also equated with the issue of parole, which is then written in parentheses.

This is of great concern, as the issue of commuting the unserved part of the convicted person to a more lenient form of punishment does not simply become a subject of independent discussion by the Probation Service, but is studied and assessed exclusively in the context of early conditional release from serving a sentence.

In case of Penitentiary Service, the conclusion is implemented differently. In particular, in 2019 the Amendment was made in the Order, it was envisaged that the Penitentiary Service should provide the report in accordance with the established criteria. According to that system, the information included in the reference on the factual description of the convicted person's personal file and behaviour is evaluated using pre-designed indicators. As a result, the person gets credits. In case of accumulating 28 out of the maximum 43 points, a positive conclusion is accepted about the person. The regulations on the mentioned system and its application are referred to in points 5 and 6 of this subchapter.

In the concluding part of the template of the report of the Penitentiary Service, it is mentioned that *the report on the convicted person is positive or negative.* It turns out that, unlike the Probation Service, the report of the Penitentiary Service does not explicitly state that the questions on early conditional release from serving a sentence or commuting the unserved part of the sentence to a more lenient form of punishment, however, it is in fact true. In particular, in this case, too, each of the issues is not discussed separately in the report, and the evaluation of the questions is one - "positive report" or "negative report".

The logic of the regulations on the RA Criminal Code testifies to the separation of the issues of early conditional release from serving a sentence and commuting the unserved part of the sentence to a more lenient form of punishment. They are provided for in two different Articles 76 and 77. In the first case, the regulations on early conditional release from serving a sentence are defined, and in the second case, the provisions on commuting the unserved part of the sentence to a lenient form of punishment. It turns out the person has two separate rights that must be exercised independently. Of course, this does not mean that the circumstances of the convicted person's proper conduct in assessing the likelihood of committing a new crime are not the same. However, based on the data collected, not one single answer should be given, but two different answers.

Therefore, the Penitentiary Service and The Probation Service should consider both the conditional release of a person from serving a sentence and commuting the unserved part of the sentence to a more lenient form of punishment and to provide independent assessments on these two issues. This, in turn, will help the courts to independently consider the issues of both early conditional release of a convicted person from serving a sentence and commuting the unserved part of the sentence to a more lenient form of punishment.

3. The regulations of the Penitentiary Code provide for a differentiated approach to persons sentenced to life imprisonment and other convicted persons. In particular, according to part 2 of Article 116 of the Code, if a person sentenced to life imprisonment does not agree to submit the issue of early conditional release from serving a sentence or commuting the unserved part of the sentence to a more lenient form of punishments, the issue may be reconsidered **one and a half years after** the relevant ruling. Part 3 of the same Article stipulates that in case a person sentenced to life imprisonment is rejected by a court, the issue may be reconsidered **three years after** the final judicial act enters into force. According to the regulations of Article 115 of the Code, in case of persons sentenced to imprisonment for a certain term, the time provided for reconsideration of the case **is three months**, and in case of rejection there is **a six-month period** for the possibility to reapply.

It turns out that in case of persons sentenced to life imprisonment, the issue of early conditional release from serving a sentence or commuting the unserved part of the sentence to a more lenient form of punishment envisages an unreasonably differentiated approach. The very purpose of reviewing the issue of the convicted person being discussed by the competent body with reasonable regularity has a legitimate purpose. **However, the differentiation between those terms and the fact that they have been sentenced to life imprisonment for a certain period of time is in no way based on that legitimate aim. Consequently, such a differentiation lacks an objective basis, becoming an end in itself and illegitimate.**

It is noteworthy that such a differentiated approach is manifested by the additional precondition set forth in part 1 of Article 116, of the Penitentiary Code. In particular, according to that regulation, *a person sentenced to life imprisonment may be subject to early conditional release from serving a sentence* ***if they have not been subjected to disciplinary penalty for malicious violations of the established order of serving the sentence during the previous five years,*** *after serving not less than twenty years of imprisonment.* It turns out that in case of persons sentenced to imprisonment for a certain period of time, the fact of the existence of a disciplinary penalty while serving the sentence is discussed in an independent manner, while in case of those sentenced to life imprisonment , a specific prohibition is fixed, which makes it impossible to discuss the issue, if the person has a penalty for malicious violations of the established order of serving the sentence within the prescribed period.

4. Pursuant to part 12 of Article 115 of the RA Penitentiary Code, *in the cases provided for in parts 7 and 8 of this Article, the issue of early conditional release from serving a sentence of the convicted person or commuting the unserved part of the sentence to a more lenient form of punishment* ***may be reconsidered. three months after the admission,*** *if the convicted person has submitted an application not earlier than 40 days before the expiration of the mentioned term, except for the cases provided for in Article 116 of this Code. In case of re-application by the convicted person, the reports are prepared within one month after receiving the application.* That is, in case one of the reports is negative, and the person does not give written consent to submit the issue to the court, as in case when both reports are negative, the head of the institution makes a decision not to submit the issue to the court, the issue of

early conditional release from serving of the sentence or commuting the unserved part of the sentence to a more lenient form of punishment may be reconsidered **three months after** the relevant decision is made.

At the same time, part 13 of Article 115 of the Penitentiary Code stipulates t*hat in case of a ruling by the court to refuse* ***early conditional release from serving a sentence*** *or to commute the unserved part of the sentence to a lenient form of punishment, the issue of early conditional release of the convicted person from serving a sentence or commuting the unserved part of the sentence to a lenient form of punishment* ***may be reconsidered six months after the entry into force of the final judicial act****, if the convicted person has submitted an application not earlier than 40 days before the expiration of the mentioned term, except for the cases provided for in Article 116 of this Code. In case of re-application by the convicted person, the reports are prepared within one month after receiving the application.* It turns out that in any case of refusal by the court of on early conditional release of a person from serving a sentence or commuting the unserved part of the sentence to a more lenient form of punishment, the person can re-apply with the same question only **six months after** the entry into force of the judicial act. In addition, the six-month period shall begin to run after the final judicial act enters into force, and if the person appeals the judiciary act to higher instances, the period for re-submitting the issue of early release from serving the sentence may be extended for the person for an indefinite period.

These regulations create indirect obstacles to the decision of the administration of the Penitentiary Institution, as well as from the point of view of appealing the court decision. In particular, if a person decides to go to court and the court decision is negative, there will be an unfavorable consequence for the person to reapply- the term will be extended for 3 months.

Therefore, this is problematic both in case if one of the reports is negative, the person decides whether or not to go to court and takes the risks and from the perspective of prolongation of the discussion of the issue of early release from serving the sentence in case of rejection ruling by the court.

5. The criteria for elaborating a report by the Penitentiary Service on the conditional early release of a convicted person from serving a sentence or commuting the unserved part of a sentence with a more lenient form of punishment were adopted by the RA Ministry of Justice in 2019. In particular, the Annex 3[225] to the Order entitled "Criteria for the Report on the Information Included in the Reference on the Fact Sheet of the Convicted Person's Personal Case". The circumstances provided for in parts 1.1 and 1.2 of Article 76 of the Criminal Code relate to those under the jurisdiction of the Penitentiary Service. They are assessed on the basis of pre-defined indicators, as a result of which the convicted person obtains credit (s). In case of getting 28 out of a maximum of 43 credits, the Penitentiary Service accepts a positive

[225] Hereinafter referred to as the Annex in this Sub-Chapter.

conclusion about the person. It turns out that each criterion of this system of collection of credits is significant or at least can have an influence on the conditional release of the convicted person from serving the sentence, or commuting the unserved part of the sentence to a more lenient form of punishment.

The issue needs to be considered from the point of view of creating the necessary conditions by the State on early conditional release of a convicted person from serving a sentence and commuting the unserved part of the sentence to a more lenient form of punishment. In particular, the non-provision of such conditions by the State can not be interpreted to the detriment of a convicted person in any way. Adherence to this principle is important.

However, in some of the circumstances provided for in the Annex, this principle is not observed. Thus, *paragraph 3 of the Annex discusses the fact of participating in educational programmes, sports or cultural events or self-made associations of convicted persons while serving their sentences*. As evaluation indicators, 4 are envisaged, in each of which a specific credits (s) is (are) defined.

Indicator	**Credits**
i. While serving his or her sentence, they received a working-professional, educational qualification, a diploma	3
ii. Participated in educational programmes, sports or cultural events or self-made associations of convicted persons	2
iii. Wanted to participate, but , the Penitentiary Institution did not provide the opportunity to organize the mentioned events	1
iv.did not participate	0

Paragraph 4 of the Annex envisages *the fact of working for at least three months while serving the sentence,* in this case 3 indicators are predetermined.

Indicator	**Points**
i. Worked	3
ii.Wanted to work but was unable to do it, including due to illness, disability or age	1

iii. Did not work	0

Consequently, it is possible that a person will be deprived of points by not being able to work or participate in educational programmes, sports or cultural events or self-made associations of convicted persons. It turns out that due to the state not creating the necessary conditions, the person may not accumulate the necessary credits, as a result of which he will be deprived of the opportunity on early conditional release from serving a sentence and commuting the unserved part of the sentence to a more form of punishment.

There is also a non-unified approach to the credits defined for the assessment of the circumstances provided for in the Annex. The following are the indicators and credits for assessing the circumstance "participation in re-socialization, including personal development events" provided for in paragraph 13 of the Annex.

Indicator	**Points**
i.Participated	3
ii. Wanted to participate, but no possible conditions were created	2
iii. Did not participate	0

First, it should be noted that in this case, too, the State's failure to provide the necessary conditions is interpreted to the detriment of the convicted persons.

In case of the previous two circumstances, in case of the convicted person's wish and failure to provide the necessary conditions by the State, the person receives 1 credit. However, if there is a desire for re-socialization, including participation in personal development activities, but in case of its impossibility, the person receives **2 credits**. It is not clear what is the reason for envisaging the different credits. In both cases, the conditions are basically the same: the person has a desire to participate in the event, but the State does not have the opportunity to create conditions for its realization.

In this regard, it is necessary to refer to the relevant international standards. Thus, in accordance with paragraph 19 of Recommendation 22 (Rec (2003) 22) of the Committee of Ministers of the Council of Europe on early conditional release from serving a sentence, ***the absence of employment opportunities for early conditional release from serving a sentence should not constitute a refusal of early conditional release from serving a sentence or grounds for postponing. Steps must be taken to provide***

other means of employment. The impossibility of securing regular employment should not be a ground for refusing or postponing early conditional release from serving a sentence (…)[226].

That is, before the convicted person makes assessments on the circumstances outlined for early conditional release from serving a sentence, the State must provide the necessary conditions for their implementation. In case of impossibility to provide such conditions, the State should interpret it in favor of the convicted person and not to the detriment of them by not providing the necessary number of credits.

6. Another problem of the credits collection system using criteria is the age of the convicted person. Thus, paragraph 6 of the Annex envisages the circumstance entitled "The age of the convicted person at the moment", the indicators and credits of which are presented below.

Indicator	Points
i. Up to 28 years old	1
ii. 28 to 55 years old	2
iii. Above 55	3

Paragraph 1.2 of Article 76 of the Criminal Code, inter alia, provides that the age of a convicted person should be taken into account when assessing the likelihood of a new crime being committed by a convicted person, but this does not mean that such an impersonal approach should be taken. The approach that a convicted person may lose a credit and may also be not subjected to early conditional release from serving a sentence only because they are under 55 years old is very worrying. It is possible for a convicted person under the age of 55 to have exemplary behaviour on the outside, but lose credit only because of age.

The practice of envisaging such a differentiated approach on the basis of age is inadmissible without assessing the individual risk of the person deprived of liberty. If this is intended to demonstrate a humanitarian approach to older persons deprived of their liberty, it is unclear how to use 55 years as a criterion and for example, excluding juveniles (14-18 years old) or young persons (19-21 years old).

[226] See: https://rm.coe.int/16800ccb5d webpage, as of 31.03.2021.

Therefore, a person's age should be considered in conjunction with other circumstances assessed in strict accordance with the principle of individual approach.

7. Another noteworthy problem is the issue of fixing the decisions of the administration characterizing the behaviour of a person during the period of detention as a measure of restraint in the character reference of a convicted person, which was raised by an individual complaint addressed to the Human Rights Defender. In particular, the question is whether measures of incentives and penalties imposed on the person during detention should be included in the character reference of a convicted person after the imposition of the sentence and become the subject of discussion, inter alia, when deciding the issues on early conditional release from serving a sentence and commuting the unserved part of the sentence to a more lenient form of punishment

Thus, in the Case No. ՎԴ / 3251/05/19, the RA Administrative Court, in response to the argument presented by the respondent that the measure of the penalty received during the detention should be included in the personal character reference of the convicted person on the grounds that according to part 3 of Article 69 of the RA Criminal Code*, the period of detention before the entry into force of the verdict shall be calculated as the punishment imposed by imprisonment, keeping in a disciplinary battalion, counting one day for one day,* and noted **that such legal regulation and law enforcement, however, in the Court's view could not be interpreted to the detriment of the convicted person, including the characterization of the convicted person's behaviour.** Moreover, according to the Court's position, *the inclusion of penalties imposed on a person prior to recognition as convicted does not follow from the essence of the criminal law rule of "serving a sentence based on a conviction" defined by the RA Criminal Code, the RA Criminal Procedure Code, as well as from the regulation of the Order No. 279-Ա of the Minister of Justice of the Republic of Armenia of 13 July 2016.*

Therefore, a person's behaviour should be assessed only after the sentence has been imposed, and the convicted person's character reference should include information on the convicted person's behaviour only after the sentence has been imposed, which in practice should be strictly controlled.

Summarizing the abovementioned, it is necessary to:

- ✓ ***Make legislative amendments, providing for the issue of early conditional release from serving a sentence in each case, including two negative reports, for the court to consider the issue of early conditional release from serving a sentence or commuting the unserved part of the sentence to a more lenient form of punishment;***
- ✓ ***Exclude the definition of criteria and differentiated preconditions for the preconditions for consideration and review of the issue on early conditional release from serving a sentence or commuting the unserved part of the sentence to a more lenient form of punishment for all persons sentenced to imprisonment;***
- ✓ ***Define equal terms for a new hearing in case of refusal on early conditional release of a convicted person from serving a sentence or commuting the unserved part of the***

sentence with a more lenient form of punishment;

- ✓ ***Provide appropriate legislative and practical solutions that will ensure a separate and independent discussion of the issues of on early conditional release from serving a sentence and commuting of the unserved part of the sentence to a more lenient form of punishment imposed on the person by the Penitentiary and Probation Services;***
- ✓ ***Exclude the use of the absence of necessary conditions or opportunities in Penitentiary Institutions (for example, work, resocialization programmes, etc.) to the detriment of a person deprived of liberty In the credit system of the report on early conditional release from serving a sentence by the Penitentiary Service;***
- ✓ ***Exclude groundlessly differentiated approach on the basis of age in the credit system of compiling a report on early conditional release from serving a sentence by the Penitentiary Service;***
- ✓ ***Ensure, in practice, the inclusion of information on a person's behaviour in the convicted person's character reference only after the sentence has been imposed.***

10.2. Issues related to the activities of the Placement Commission of the Central Body of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia

The Placement Commission[227] of the Central Body of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia (hereinafter referred to as the Placement Commission) discusses the issues of determining the type of correctional institution for the convicted persons, changing the type of institution, transferring them from one institution to another, as well as issues of sending to a closed correctional institution for technical and economic services or leaving detainees in a detention facility or sending them to another location.

For several years, persons deprived of their liberty have regularly addressed complaints to the Human Rights Defender of the Republic of Armenia, which have the same content and refer to the decisions of the Placement Commission, their substantiation and reasoning. These issues have been raised and

[227] The legal basis and procedure of the Placement Commission are enshrined in the RA Penitentiary Code, as well as by the Decree No. 34-Ն ''On Approving the Composition and Procedure of the Placement Commission Operating in the Central Body of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia and Recognizing as Invalid the Order No. PI-26-Ն of 21 April 2005 of the Minister of Justice of the Republic of Armenia'' of the Ministry of Justice of the Republic of Armenia of 14 March 2012.

summarized in the Annual reports on the activities of the Human Rights Defender as the National Preventive Mechanism in 2017[228], 2018[229] and 2019[230].

The reports on the activities of the National Preventive Mechanism emphasize that there are legislative and practical issues related to the activities of the Placement Commission in particular:

1) When determining or changing the correctional institution for the purpose of serving a sentence, the right of a person to privacy and family life isn't taken into account;
2) The decisions made by the Placement Commission are mainly not reasoned;
3) The principles of activities of the Placement Commission, the criteria underlying the placement are not clearly regulated by the penitentiary legislation.

Studies of individual complaints, as well as legislation, show that the issues raised remain relevant.

Thus, the 2019 Annual report on the Activities of the National Preventive Mechanism states that complaints were addressed to the Human Rights Defender regarding non-placement in the Penitentiary Institution near the place of residence of the family members. Relatives of persons deprived of their liberty, living far from Penitentiary Institutions, are sometimes unable to visit a person deprived of liberty due to their social status, which hinders the strengthening of their family and social ties. In order to maintain contact with their relatives, they want to be placed to a Penitentiary Institution as close as possible to their relatives' place of residence.

In this regard, the Human Rights Defender made decisions on the existence of violations of human rights or freedoms, stating that persons deprived of their liberty were not unjustifiably placed in Penitentiary Institutions near the place of residence of their close relatives, which led to violations of the right to contact with the outside world. The mentioned decisions were submitted to the RA Ministry of Justice, proposing to eliminate the violations of persons' rights.

The Human Rights Defender emphasized that the issue is especially problematic in case when the Human rights Defender's Office together with the Ministry of Justice has developed a package of legislative drafts, which, among other regulations, envisages the ensuring of contact with close relatives in part 2 of Article 69 of the RA Penitentiary Code. as a basis for transferring a convicted person from one institution to another of the same type. The draft was adopted by the RA National Assembly on the 3rd of June 2019.

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[228] See: https://ombuds.am/images/files/59297c7b4276c9dbf19cd1f1cfcd92a8.pdf webpage, as of 31.03.2021, pages 139-149.

[229] See: https://ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf webpage, as of 31.03.2021, pages 354-359.

[230] See: https://ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpage, as of 31.03.2021, pages 397-401.

Referring to the unclear regulations of the penitentiary legislation and the question of the reasoning of the decisions of the Placement Commission*, it should be noted that according to Article 101 of the RA Penitentiary Code, the Placement Commission changes the type of correctional institution taking into account* ***the behaviour of the person sentenced to a certain term or to life imprisonment, the appropriateness of the degree of isolation, the requirements of Article 68 of the same Code (rules for keeping convicted persons separate).***

The current legislation, however, does not stipulate criteria by which the Placement Commission should be guided in assessing the convicted person's behaviour and the appropriateness of the degree of isolation of the correctional institution, and on the basis of which, both placement to the Penitentiary Institution, and change the type of correctional institution to a more severe or mild degree of isolation. This is extremely problematic.

In connection with the issue, the Human Rights Defender reaffirms their position that the legislation should regulate what circumstances are taken into account in the Penitentiary institution, as well as when changing the type (regime) of the correctional institution, what criteria determine the appropriateness of the degree of isolation. It is very important that these questions be clear to the convicted persons themselves so that they can predict the consequences of their behaviour in relation to changing the type of correctional institution.

Due to these legislative issues, complaints were addressed to the Human Rights Defender regarding the non-unified practice of the Placement Commission on issues of the same nature, as well as the improper reasoning of the decisions.

At the same time, it should be emphasized that complaints have been addressed to the Human Rights Defender regarding the effective appeal mechanisms of the Placement Commission, as well as the issues of postponing the discussion of the new petition by the Placement Commission during the appeal.

The Human Rights Defender's 2019 report on the National Preventive Mechanism states that the Placement Commission is, in practice, postponing the consideration of new petitions for persons deprived of their liberty, in connection with which the Board's previous decisions have been appealed until the end of the trial. However, in this regard, the report emphasizes **that such an approach does not follow from the current legislation, in fact, creates indirect obstacles to judicial appeal of the Board's decisions, which is unacceptable.**

It should be noted that in connection with the Human Rights Defender's proposals on the principles of activities and the clear criteria system of the Placement Commission approved by paragraph 4 of the RA Government Decree No. 1717-Լ " On Programme of Measures for the Implementation of the 2019-2023 Strategy of the Penitentiary and Probation Sphere of the Republic of Armenia" of 28 November 2019, has stipulated the measure of reviewing the order of activities of the Placement Commission and the deadline is set for the first decade of July, 2020.

In this regard, the Ministry of Justice of the Republic of Armenia elaborated a draft amendment to the Order No. 34-Ա of the Minister of Justice of the Republic of Armenia of 14 March 2012, which was submitted to the Human Rights Defender's Office and then adopted on the 10th of July, 2020. However, there were no solutions to the abovementioned issues related to the activities of the Placement Commission, and the Human Rights Defender's Office submitted their concerns to the body elaborating the draft.

It should be noted that the Ministry of Justice has elaborated and submitted to the opinion of the Human Rights Defender a draft amendment to the RA Penitentiary Code, which proposes, among other regulations, to establish certain criteria for the activities of the Placement Commission, which relate mainly to assessing a person's behaviour. **Welcoming such an initiative, the Human Rights Defender's Office emphasized that the legislation should also address the criteria for assessing gradual regime change, the degree of isolation, and the preparation for release, which is also important**.

The mentioned project has not been adopted yet. **However, the Human Rights Defender reaffirms their position that the shortcomings of the legislation, such as the lack of a direct requirement to reasoning of decisions of the Placement Commission, cannot in any way justify the Placement Commisson's absolute discretion and exclude its accountability. This increases the risks of human rights violations** and of arbitrariness. And After all, the Placement Commission, in fact, in carrying out its administration, is constrained by the principles of public law. The Board, as a part of the penitentiary system, a state body endowed with specific functions during the execution of a sentence, should be guided by the requirement of Article 3 of the Constitution, as acting directly, to respect fundamental human rights and freedoms.

According to the case law of the Court of Cassation, *the administration is characterized by the fact that it relates to the field of public law. It should be the solution of a certain issue in the field of public law of the administrative body and the field of public law means the relationship of a person with the State, which acts as a holder of public power*[231].

From the abovementioned, it can be concluded that the decision-making process of the Placement Commission from the point of view of ensuring the rights of a person deprived of liberty should be carried out at least in compliance with the basic principles of administration, such as limitation of discretionary powers and prohibition of arbitrariness.

Based on the abovementioned, it is necessary to:

- ✓ ***Ensure in practice the reasoning of the decisions of the Placement Commission in particular, the decision of the Placement Commission to decide on the correctional institution or transfer the person to another correctional institution should reflect the***

[231] See the decision of the Court of Cassation made on the 3rd of December 2010 on the case No. EAKD / 1369/02/09.

results of the priority discussion of the person's right of contact with close relatives;

- ✓ ***Ensure in practice the joint application of part 2 of Article 69 of the Penitentiary Code;***
- ✓ ***Establish criteria that will serve as a basis for determining the correctional institution for serving the sentence, satisfying the individual's needs as much as possible and ensuring the individualization of the sentence;***
- ✓ ***Eliminate indirect obstacles to judicial appeal of Placement Commission decisions***.

10.3. Issues related to registration and deregistration of detained and convicted persons as having a negative addiction

As a result of monitoring conducted in Penitentiary Institutions during 2020, it was noted that the issues related to the registration or deregistration of persons deprived of their liberty remain unresolved, causing a number of problems in practice.

Paragraph 45 of the Order No. 279-Ն "On Approving the Order of Activity of the Structural Subdivisions Carrying out Social, Psychological and Legal Work with Convicted Pesons and Repealing the Order No. 44-Ն of the Minister of Justice of the Republic of Armenia of May 30 2008" of the Minister of Justice of the Republic of Armenia of 13 July 2016 stipulates that *detained and convicted persons who have a behavioural and personal addiction to violate the internal regulations of the institution, to harm their own or other persons' life or health are considered to have a negative addiction like those convicted persons who have criminal standpoints.*

At the same time, the procedure for registration and deregistration of a detained and a convicted person as having a negative addiction is defined in paragraph 46 of the abovementioned Order, according to which *the detained and convicted persons, as having a negative addiction, is being registered and deregistered by the decision of the head of the institution based on information or conclusions provided by security, social, psychological, legal, medical services, operative units.*

The analysis of the abovementioned legislative formulations allows concluding that it does not meet the requirement of legal certainty and it can give rise to differing interpretations, as it leads to a differentiated approach in practice.

Thus, first of all, the term "criminal standpoints" needs to be thoroughly analyzed and interpreted. The order of the RA Minister of Justice does not predetermine what positions are in question, by what criteria their criminal or non-criminal nature is defined. Moreover, *Article 47 1 of Annex 1 to the same Order stipulates that the information provided by the security or operative units is the basis for registering as having addiction to criminal standpoints.* Here, too, it is unclear what criteria or peculiarities of the code of conduct should govern the security or operative units of the place of deprivation of liberty in order to characterize a convicted or a detained persin as having an addiction to criminal standpoints.

It follows from the abovementioned that the wording of "criminal standpoints" needs to be clearly legislated by its substantive disclosure.

Also problematic are regulations for the registration and deregistration of a convicted or a detained person as having a negative addiction. The process of registering on the basis of a negative addiction, especially deregistration of persons deprived of liberty, is in practice unpredictable for individuals and not certain, which increases the riskiness of arbitrariness.

According to the information provided by the Ministry of Justice of the Republic of Armenia, in 2020, by the decisions of the heads of Penitentiary Institutions, 81 persons were registered as having a negative addiction, and 40 persons were deregistered. It should be noted that compared to 2019, the number of cases of both registration" and deregistration of persons deprived of their liberty as having a negative addiction has decreased (113 were registered, 95 persons were deregistered in 2019).

At the time of the visit to the ‘’Armavir’’ penitentiary institution, 126 persons deprived of their liberty were registered as having a negative addiction.

A study of the recordings about the *addiction escape* of the register of negative tendencies of the Penitentiary Institution revealed that in 2019, the SPLA department of the penitentiary applied to the Security Department to deregister a number of persons deprived of their liberty, which rejected the applications on the basis of operative information. This was confirmed by the information received during the talks.

According to the study of the register, for example, 33.3% of 36 persons with addiction to self-injury were registered in 2013-2016, after which the registration was extended by an average of 2-3 times.

It should be noted that the register of negative tendencies included the names of persons deprived of their liberty, the data on whom were missing from the lists of convicte and detained persons provided by the Penitentiary Institution The persons were allegedly transferred to another Penitentiary Institution or released from serving their sentences, but in both cases the necessary entries were not made in the register.

In connection with the deregistration of negative tendencies, the representatives of the administration of ‘’Yerevan-Kentron’’ penitentiary institution stated that it could be risky, as the persons deprived of their liberty were not kept in the abovementioned penitentiary institution for a long time and are transferred to other Penitentiary Institutions, as a result of which there are difficulties in conducting assessments in a short period of time, and in the issues of deregistration of negative tendencies from the register.

The abovementioned problems indicate the lack of clear criteria for the registration and deregistration of negative tendencies, which may have a negative impact on the protection of the rights of persons deprived of their liberty, such as the possibility of early conditional release from serving a sentence.

At the same time, regular extensions of registration of tendencies, as well as a lack of basic preventive and professional work, exacerbate the abovementioned problems.

As for the deregistration, the basic principle is that there is no penalty for a certain period of time (usually 1 year), and the justification for deregistration does not appear on the individual card (just the date and a note on deregistration is written).

The abovementioned can be assessed only in case of proper maintenance of individual cards and correction plans. Despite the abovementioned, during the visits it was stated that the individual card does not show the logical connection of addiction registration - correction plan - work done - deregistration.

Thus, the processes of both registration and deregistration in Penitentiary Institutions are, in fact, formal and they are not based on professional assessment.

Of particular difficulty is the assessment of negative tendencies and the riskiness of committing a crime again, which involves a complex combination of complex socio-psychological and in-depth psychological factors (assessment of neuropsychological stability, motivational and value systems, detection of subconscious aspirations and tendencies, diagnosis of personal structure: deviations, character abnormalities, assessment of behavioural disorders and comparison with other factors, etc).

Such a comprehensive assessment is not carried out in Penitentiary Institutions due to lack of research plans, procedures, tools, as well as specialists (small number of psychologists, lack of separate room conditions, lack of methods, lack of professional training, etc.)[232].

As a result, the detection of negative tendencies is carried out mainly on the basis of the numerical index of deviations observed in the behaviour of persons already deprived of their liberty, the relevant previous records in the personal file, and disciplinary penalties. It is an indicator of very low predictive value, as it does not rely on revealing the psychological preconditions of motivation and therefore has the nature of a mechanical recording. It should be noted that for the reasons stated for the first time a person deprived of liberty enters a penitentiary institution, a thorough preliminary assessment is not made, on the basis of which it would be possible to carry out preventive social-psychological work.

The Order No. 279-Ն of the RA Minister of Justice of 13 July 2016 lists the types of negative tendencies, which are: *tendencies to escape, self-injury, alcohol, drugs, aggression, conflict and criminal standpoints.* The Order details each type of addiction, describing the cases in which a person may be considered to have this or that addiction (paragraph 47 of Annex 1).

[232] See for more detail: Subchapter 4.13 of this report.

Referring to the addiction to self-injury, it should be noted that *it is based on two records of one more self-injury attempt or fact in a year, as well as a psychological conclusion.*

If the second point is more than understandable, then the first basis raises a number of questions. Thus, it is not clear how the number and frequency of self-injury attempts will allow the heads of Penitentiary Institutions to come to a reasonable conclusion about a person with a negative addiction and the need to register them as such. Unfortunately, two attempts at self-injury in one year cannot be a sufficient basis for such a decision. In addition, in Penitentiary Institutions, self-injury in some cases may be due to psychopathological symptoms (when a person commits self-injury in a mentally unbalanced state), the connection with self-injury can be determined by the relevant specialist (psychiatrist).

Therefore, it is expedient to discuss the justification for classifying self-injury as a negative addiction.

In this regard, it should be noted that during the visit to ‘’Yerevan-Kentron’’ penitentiary institution, a case was registered when a person who attempted suicide once while being held in the Penitentiary Institution was registered as having an addiction to self-injury. There was no information about other cases of self-injury in the medical card of the person deprived of liberty, nor was such information provided by the medical personnel.

Therefore, the question arises as to why the person was registered as a person with an addiction to self-injury, if the latter attempted suicide only once during his detention in the Penitentiary Institution.

The same problem exists with aggression and conflict tendencies, which are taken into account when defining:

A. *Existence of two and more disciplinary violations within six months, in which there are aggressiveness and circumstances characterizing the conflict;*
B. *High rate of aggression with psychodiagnosis;*
C. *Information about a crime committed with a particular cruelty or violence in a personal file.*

As in the abovementioned cases, the phrase "circumstances characterizing conflict and aggressiveness" carries the risk of misinterpretation.

Therefore, in each case of addiction it is necessary to clarify the directions of social, psychological and other work mechanisms, including in case of not recording a positive result.

At the same time, taking into account individual riskiness, it cannot be acceptable to consider the registration of a crime committed with a particular cruelty or violence as a basis of registering a person as having an addiction to aggression or conflict. The severity of the crime committed cannot be an unambiguous criterion for determining a person's behaviour in a Penitentiary Institution.

Thus, according to the mentioned order of the RA Minister of Justice, the bases are the records of the previous escape attempt or the fact of escape in the personal file, as well as the information provided by the security or operative units.

Thus, we can state that there are serious problems of legal certainty in this regard.

Regarding tendencies to alcohol and drug, it should be noted that according to the Order No. 279-Ա of the Minister of Justice of the Republic of Armenia of 13 July 2016, *the basis for registration as having tendencies to alcohol and drug is the decision of compulsory treatment given by the verdict (until the end of treatment) and medical conclusion* .

The "Clinical Guideline to Methadone Treatment of Opioid Drug Addiction" developed in 2006 by the Ministry of Health of the Republic of Armenia, "Psychiatric Medical Center" CJSC narcology clinic of the Ministry of Health of the Republic of Armenia, "Anti-Drug Civic Alliance" NGO defines drug addiction as follows: *"Addiction is a pathological, biopsychological condition, which is expressed by an insurmountable desire to acquire, use and be under the influence of drugs."*

It should be noted that drug addiction and alcoholism is a medical symptom, in connection with which it is necessary that the decision made by the relevant medical unit when deciding whether to register or deregister a person with a drug or alcohol addiction should be decisive be a mandatory condition for making a relevant decision by the head of the institution.

Separating addictions, as well as setting criteria for defining or eliminating them in accordance with the principle of certainty, is of practical practical importance for persons deprived of their liberty. The RA Criminal Code also gives importance to certain addictions and dependencies on the part of the convicted person for early conditional release from serving a sentence.

Thus, in connection with early conditional release from serving a sentence, paragraph 7 of part 1.2 of Article 76 of the RA Criminal Code stipulates that certain *addictions*, *possible dependencies, preferences are taken into account when assessing the probability of a new crime committed by a convicted person.*

On the other hand, negative consequences for convicted persons should occur not if they are addicted to drugs or alcohol, but if they are not treated for that addiction..

In response to the Human Rights Defender's request to review the types of addictions, procedure for registering, and deregistering, detained persons as conviced persons, as well as the grounds for registering a person with a negative addiction, the Ministry of Justice provided information that within the framework of the programme ‘’Strengthening the protection of human rights in prisons of Armenia’’ implemented by the Ministry of Justice of the Republic of Armenia and Council of Europe, was developed and was approved. by the Order No. 513-Լ "On the Strategy for the Prevention of Suicides and Self-injuries in Penitentiary Institutions for 2021-2022, the 2021-2022 Programme of Measures for

its Implementation" of the Minister of Justice of the Republic of Armenia of 10 December 2020. Within the framework of the measures defined by the program, it is planned to review the Order No. 279-Ն of the RA Minister of Justice of 13 July 2016, which is planned to be implemented in the second half of 2021.

The Human Rights Defender will be consistent in carrying out the process of reviewing the mentioned order.

Summarizing the abovementioned, based on the ability to solve existing problems, it is necessary to:

- ✓ ***Review the procedure of registration and deregistration of a detainee by the decision of the heads of Penitentiary Institutions;***
- ✓ ***Give the definition of the concept "negative addiction", how to discuss the justification of classifying certain types of addictions (self-injury, aggression, conflict) as negative tendencies, taking into account the individual riskiness factor of the person; to discuss the issue of giving decisive importance to the treatment of a person while being in registration and deregistration of addictions given to convicted and detained persons with drug addiction and alcoholism, its effectiveness and the positive course of their treatment.***

10.4. Continuously documented legislative issues that have not been resolved

As a result of the monitoring carried out within the framework of the National Preventive Mechanism and the study of the legal acts in the field, the Human Rights Defender raised a number of legislative issues in 2016, 2017, 2018 և 2019, which, however, have not been resolved for years.

The mentioned issues have been thoroughly studied, as a result of which the legal analyzes and the recommendations summarizing them have been reflected in the Annual reports on the activities of the Human Rights Defender as the National Preventive Mechanism 2016, 2017 2018, and 2019.

Given that a number of legislative issues have been discussed separately and summarized in the abovementioned reports, this subchapter does not aim to address each of them individually in a legal analysis again.

However, the Human Rights Defender notes that the *annual* reports address the legislative issues addressed over the years. Not giving it is highly unacceptable from the point of view of proper provision of the rights of persons deprived of their liberty.

The documented legislative issues, which have not been resolved in time, are related to the following issues:

1) *Temporary isolation of 24 hours of a person deprived of liberty for violating internal regulations;*
2) *Isolation of persons deprived of their liberty;*
3) *Mechanism for appealing the actions and inaction of the competent bodies in the penitentiary system.*

Thus, the issue of 24-hour isolation of a person deprived of liberty for violating internal regulations is as follows. Pursuant to part 24 (20) of Annex 232 of the Order[233] No. 194-Ն of the Minister of Justice of the Repuclic of Armenia of 21 November 2011, *the responsible duty officer of the penitentiary institution* ***temporarily isolates a detained or a convicted person for a maximum of 24 hours before the arrival of the head of the penitentiary institution by compiling a relevant record*** *based on a written report from the on-duty security guard or another employee of the penitentiary institution in the absence of the head of the penitentiary institution in case of a disciplinary violation, the need to eliminate its conditions, in cases of appropriate application by a detainee or a convicted person.*

The mentioned order does not set a maximum limit for making successive decisions on temporary isolation of a person deprived of liberty for a maximum of 24 hours before the arrival of the head of the Penitentiary Institution. There are no clear regulations on the conditions of detention of a person deprived of liberty in solitary confinement. The Penitentiary Code reserves the right to impose a penalty (including transfer to a disciplinary cell) on a person deprived of liberty only by the head of the penitentiary institution, therefore, granting such authority to the responsible duty officer of the penitentiary institution may lead to a number of problems.

At the same time, the issue of the transfer of a person to a disciplinary cell, after being temporarily isolated, by the head of the penitentiary **as a measure of punishment is offset by the period of detention in the disciplinary cell has not been regulated yet.** Therefore, in order to make a decision on the isolation of a person who does not have the authority to impose a penalty in a penitentiary institution, as well as to change the status of a person deprived of liberty as a result, to ensure legal certainty over the terms of the later sentence, the abovementioned issues should be clearly regulated at the legislative level.

In particular, it should be defined at the legislative level that a person temporarily isolated cannot be kept in a disciplinary cell. It may also provide for a ban on successive decisions to isolate a person for up to 24 hours[234].

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[233] Order No. 194-Ն "On Approving the Order of Activities of the Structural Subdivisions of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia" of the Minister of Justice of the Republic of Armenia of 21 November 2011.

[234] See in more detail: https://ombuds.am/images/files/59297c7b4276c9dbf19cd1f1cfcd92a8.pdf and https://www.ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf webpages, as of 31.03.2021, pages 156-158 and 367-369.

As for the legislative problem on the isolation of persons deprived of their liberty, the Human Rights Defender stated that part 1 of Article 106 of the RA Penitentiary Code stipulates *that in a closed correctional institution, the convicted person is kept in an isolated cell for four persons,* ***and by the reasoned decision of the head of the institution, the convicted person can be kept in the cell alone.*** According to Article 108 1 1 of the Penitentiary Code, *persons sentenced to life imprisonment are kept in cells, as a rule, no more than four convicted persons in each cell.* ***At the request of the convicted person or in case of danger to their personal safety, by the decision of the head of the correctional institution, the convicted person may be kept in solitary confinement.***

However, these provisions do not specify the circumstances underlying the detention, its maximum duration, as well as the responsibilities of the penitentiary administration to eliminate the circumstances contributing to the detention[235].

It should be noted that in 2020 the RA Ministry of Justice submitted to the Human Rights Defender a draft law envisaging amendments to the RA Penitentiary Code, which envisages reviewing the regulations on Article 108 on solitary confinement. In particular, the draft envisages time limits for solitary confinement and a requirement for regular review of the decision to keep in solitary confinement. There is also a requirement for the on-duty officer to visit the convicted persons in solitary confinement on a daily basis and to make a note about it in the relevant register.

Welcoming the mentioned legislative initiative, the Human Rights Defender's Office presented its considerations on the draft to the Ministry of Justice, proposing to clarify the conditions of keeping the convicted persons in solitary confinement, as well as the guarantees of not restricting their rights.

An effective guarantee for the protection of the rights of persons deprived of their liberty is the effective mechanisms of actions and inaction of the competent bodies of the penitentiary system and effective mechanisms for appealing acts made by them and their accessibility.

This issue was addressed in detail in the *annual* reports[236] on the activities of the Human Rights Defender as the National Preventive Mechanism for 2017, 2018 and 2019.

Thus, the Penitentiary Code of the Republic of Armenia does not regulate the requirements and procedures for appealing the decisions made by them and actions, inaction or decisions made by the and actions and inaction of the administration of the Penitentiary institution and other competent bodies There is no reference to the terms of the appeal, the requirements of the appeal, the procedure for

[235] See in more detail: https://ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf webpage, as of 31.03,2021, pages 363-367.

[236] See: https://ombuds.am/images/files/59297c7b4276c9dbf19cd1f1cfcd92a8.pdf , https://ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf and https://www.ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf webpage, as of 31.03.2021, pages 158-161, 374-379 and 401-405.

reviewing and resolving the complaints, the restoration of the violated right, as well as a number of other important issues.

Article 7 of the RA Penitentiary Code, envisaging the right to judicial appeal of the actions of officials, does not define at all which court has jurisdiction over appeals, the court of general jurisdiction or the administrative court. According to part 2 of Article 10 of the RA Criminal Procedure Code, the administrative court does not have jurisdiction over the cases related to the execution of the sentence, and according to part 2 (6) of Article 41 of the RA Criminal Procedure Code, *it falls within the jurisdiction of the court of general jurisdiction and the resolution of issues arising during the execution of the judgment.*

It should be noted that the issue was addressed by the ruling RCC-1439 of the RA Constitutional Court of 22 January 2019. In particular, the Constitutional Court, noting the ambiguity of the legislative regulations related to jurisdiction, noted that before overcoming the existing systemic legal uncertainty by the National Assembly, cases related to appeals (actions) of penitentiary officials are subject to review by the RA Administrative Court. According to Article 21 2 2 of the Constitutional Law, as long as the jurisdiction to examine a specific case, material or issue related to the execution of a sentence is not clearly granted by law to the court of general jurisdiction examining criminal cases.

However, the interim solution proposed by the Constitutional Court is not sufficient to resolve the issue, given the existing legal uncertainties regarding the actions, inaction and decision-making right of officials of the penitentiary system and other competent bodies.

The study of the complaints addressed to the Human Rights Defender shows that there are no special procedures in the RA Administrative Court for quick examination of cases, as a result of which the examination of cases can take a definite period of time if the appeal concerns urgent intervention situations.

The need to provide clear mechanisms for appealing the actions, inaction or decisions of the administration of Penitentiary Institution and other competent bodies has been repeatedly raised by the Human Rights Defender to ensure the proper exercise of this right of the deprived person.

It should be noted that in connection with this issue, a draft law on amendments to the RA Criminal Procedure Code was developed by the Ministry of Justice in 2017 and circulated in 2017 and 2019. However, the draft has not been adopted yet.

Summing up the abovementioned, as well as taking into account a number of well-known international standards, the Human Rights Defender stated that it is necessary to:

- ✓ ***Provide by law for successive decisions on the temporary isolation of a person for up to 24 hours, as well as a ban on keeping a person temporarily isolated in a disciplinary***

cell;

- ✓ ***Clearly state at the legislative level the circumstances underlying the detention of persons deprived of their liberty, its maximum duration; the conditions of solitary confinement, as well as the responsibilities of the administration of Penitentiary Institution to eliminate the circumstances conducive to solitary confinement;***
- ✓ ***Ensure the necessary human interaction with persons deprived of their liberty, as well as the regular and systematic organization of social and psychological activities.***
- ✓ ***Exclude the practice of isolating persons deprived of their liberty without a reasoned decision of the head of the Penitentiary Institution;***
- ✓ ***Provide by law special regulations for the actions, inaction of the administration of of the Penitentiary Institution or other competent bodies or judicial appeal procedures of the act adopted by them, opportunity to record the fact of violation of the rights of a person deprived of liberty, deadlines for appeal, reasonable deadlines for consideration of the issue by the court, type of judicial act to be made, due to that, the term of entry into force of the act, legal regulations for their appeal or cassation.***