



THE HUMAN RIGHTS DEFENDER OF THE REPUBLIC OF ARMENIA

A photograph of a dilapidated, multi-story building with peeling white and orange paint. Several windows are visible, some with metal grates. In the foreground, there are several strands of barbed wire stretched across the frame, supported by wooden posts. The overall scene suggests a place of confinement or a state of neglect.

ANNUAL REPORT ON THE ACTIVITIES OF THE HUMAN RIGHTS DEFENDER OF THE REPUBLIC OF ARMENIA AS THE NATIONAL PREVENTIVE MECHANISM DURING THE YEAR 2022

YEREVAN 2023



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OF THE REPUBLIC OF ARMENIA**



ANNUAL REPORT

**ON THE ACTIVITY OF THE
HUMAN RIGHTS DEFENDER
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IN THE YEAR 2022**

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INTRODUCTION

The Constitution of the Republic of Armenia and the renowned international documents ratified by the Republic of Armenia expressly declare the absolute prohibition of torture, inhuman or degrading treatment or punishment. From the perspective of absolute prohibition of torture, its prevention is of key importance which, in its turn, implies a complex of regular and systematic measures meeting international requirements at legislative and practical levels. From the perspective of both effective prevention of torture and effective investigation into such cases, it is fundamental that all the competent public authorities with sufficient toolkit join their efforts in coordinated and interdependent work. Public scrutiny also greatly contributes to the absolute prohibition of torture.

The issue of prevention of torture and other forms of ill-treatment is particularly sensitive as it refers to places where persons are deprived of their liberty and are kept against their free will. These are special places in terms of securing the rights of the persons, and working there requires highly professional approaches which due to their aim of identifying specific issues, will ensure targeted outcomes.

The Optional Protocol to the 1984 United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 18 December 2002 /hereinafter referred to as the “Optional Protocol”/ provides for establishing an independent national preventive mechanism which should be vested with extensive powers and have free access to and possibility to make due examinations at all the places where people may be deprived of their liberty.

The issue is particularly sensitive as it refers to places where persons are deprived of their liberty (penitentiary institutions, detention facilities for the arrestees, psychiatric organizations, etc.) and are kept against their free 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.

After the ratification of the Optional Protocol, the RA Law on the Human Rights Defender dated 21 October 2003, was supplemented with Article 6.1 whereby the RA Human Rights Defender was declared as an Independent National Preventive Mechanism. However, the above Article does not expressly predetermine the Defender's mandate with this regard or the guarantees aimed at securing it, or the range of the places of deprivation of liberty, or the scope of cooperation with the civil society.

Following the Constitutional Amendments of 6 December 2015, the RA National Assembly adopted on 16 December 2016 the RA Constitutional Law on the Human Rights Defender /hereinafter referred to as the "Constitutional Law"/. According to Article 2(2) thereof, the RA Human Rights Defender shall be vested with the status of the National Preventive Mechanism envisaged by the Optional Protocol. And Article 28 of the Constitutional Law both defines the powers of the Human Rights Defender as the National Preventive Mechanism, and expressly provides the range of the places of deprivation of liberty. According to Article 27 of the said Law, the Defender's activity, in their capacity of the National Preventive Mechanism, aims to prevent torture and other cruel, inhuman or degrading treatment in places of deprivation of liberty.

The performance of the functions of the National Preventive Mechanism is continued to be secured by the Department for Prevention of Torture and Ill-Treatment of the Human Rights Defender's Office and by the independent experts of the National Preventive Mechanism. The basic principles and directions of the activity of the Mechanism are presented further below in this Report.

The Human Rights Defender's activity, in their capacity of the National Preventive Mechanism, is carried out in strict compliance with the principles of impartial, apolitical and professional working practices, in close cooperation with public authorities, civil society and international partners. The performance of the functions of the National Preventive Mechanism is secured by the Department for Prevention of Torture and Ill-Treatment of the Human Rights Defender's Office and by the

independent experts of the National Preventive Mechanism. The basic principles and directions of the activity are presented further below in this Report.

Cooperation with the civil society makes an integral part of the National Preventive Mechanism activity. This is primarily manifested by the working activities of the Advisory Council on Prevention of Torture adjunct to the Human Rights Defender, which includes representatives of Non-Governmental Organizations, specialized in prevention of torture and ill-treatment and independent experts in the same field.

CHAPTER 1. NATIONAL PREVENTIVE MECHANISM: BASIC PRINCIPLES AND STRATEGIC DIRECTIONS OF PROGRESS

After the Constitutional Law of the Republic of Armenia on the Human Rights Defender entered into force, an effective mechanism for complementing the functions of the Human Rights Defender as the National Preventive Mechanism and the ombudsman was adopted based on the internationally accepted principles.

Various units of the Human Rights Defender's Office consider both individual complaints, and issues on their own initiative, which makes it possible to identify issues related to specific situations at the places of deprivation of liberty. And the monitoring conducted under the mandate of the National Preventive Mechanism allows for examination of the entire system, regardless of availability of any complaints.

Any issues of a systemic nature identified by individual complaints are brought to the attention of the Units of the National Preventive Mechanism and vice versa, any individual cases revealed through monitoring are referred to the units considering such issues. Such practices ensure a flexible system of information exchange.

To ensure the performance of the functions of the National Preventive Mechanism, the Department for Prevention of Torture and Ill-Treatment operates as a separate unit within the Human Rights Defender's Office.

The working activities of the Department involve lawyers, and the Department is headed by a doctor. To show the necessary scientific and sectoral professional approaches within the working activities of the National Preventive Mechanism, the Human Rights Defender also involved in the National Preventive Mechanism activity independent experts, i.e. representatives of the scientific

sector and/or NGOs, who have the status of a National Preventive Mechanism expert (a sociologist, a psychologist, doctors, including a psychiatrist).

Independent experts are involved in the working activities of the National Preventive Mechanism by the contract concluded with them, which provides for their remuneration and also reimbursement of their business trips and any other expenses incurred in the course of performing their work.

The Human Rights Defender's decree approved the work regulation and code of conduct of the experts of the National Preventive Mechanism. These documents regulate the principles of the experts' activity and express codes of conduct as well as the precise duties of the experts at the stages of preparing, conducting and consequently summing up the monitoring visits and the prohibition on disclosing any information that becomes known to the experts in the course of fulfilling such duties and beyond such duties, in frames of the National Preventive Mechanism activity. Also, the decree excludes any possibility for conflict of interests and for the experts' simultaneous involvement in any other monitoring groups.

The Constitutional Law also defines the guarantees for the activities of the persons holding positions at the Human Rights Defender's Office and of the experts of the National Preventive Mechanism. Hence, the persons holding offices at the Human Rights Defender's Office and the experts of the National Preventive Mechanism may be required to provide explanation or may be questioned as to the nature of the applications or complaints addressed to the Human Rights Defender or the decisions made by the Human Rights Defender as a result of examination thereof and may provide them to other persons for familiarization only with the written consent of the Human Rights Defender (See: Article 11(2) of the Constitutional Law).

Article 332.1 of the RA Criminal Code provides liability for interfering with the fulfillment of their powers by the Human Rights Defender, including for denying them or any competent person acting by their decision access to any place whatsoever.

The financial guarantees of the National Preventive Mechanism have also been enhanced by prescribing in the Constitutional Law a special requirement for funding the activity of the Human Rights Defender 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 the funding allocation from the state budget to the Human Rights Defender as the National Preventive Mechanism may not be smaller than the amount of the previous year's allocation from the state budget (See: Article 8(5) of the Constitutional Law).

It is thanks to this very provision that the status of the Human Rights Defender in Armenia and, first of all, that of the National Preventive Mechanism are considered as the best international practices. Furthermore, they are recommended to other countries when establishing respective institutions.

Throughout the year of 2022, the Unit of the National Preventive Mechanism was guided in its working activities by the international standards for securing the rights of the persons deprived of liberty during the COVID-19 and by the experience of partner organizations in other countries, etc.

It is noteworthy that in 2022, the unit exercising the functions of the National Preventive Mechanism maintained a permanent contact with partner public authorities. The working activities were primarily manifested through close cooperation.

For instance, effective discussions on various issues were held with the RA Police, RA Ministry of Health, RA Ministry of Justice, the Penitentiary Service of the RA Ministry of Justice and the Penitentiary Medical Center SNCO, the RA Ministry of Labor and Social Affairs and the RA Prosecutor General's Office.

In 2022, 73 monitoring visits of the National Preventive Mechanism were conducted, with 24 regular visits and 49 visits on an as-needed basis. 26 regular visits were made to the police stations and detention facilities for the arrestees (9 visits), penitentiary institutions (3 visits), psychiatric organizations (3 visits), and the cells intended for temporary detention of persons deprived of liberty at courts of law (6 visits). It is noteworthy that unlike the visits by the Human Rights Defender institute in its status of the Ombudsman, the visits by the National Preventive Mechanism have essential significance and may last more than 1 day at a single institution. Also, visits were made following the infection (scabies) recorded at a penitentiary institution to secure the right to health care of the persons deprived of liberty and to monitor the progress in taking measures to prevent the spread of the infection.

The activity of the National Preventive Mechanism continued to rely on the presumption of trust towards the persons deprived of liberty and the principle of risk assessment of their behavior as an underlying approach of a fundamental significance. This means that each person kept at the places of deprivation of liberty must be treated individually, regardless of the gravity or nature of their acts, either alleged, or confirmed by a court judgment. Also, a basic principle of the National Preventive Mechanism is involvement of persons deprived of liberty in decision-making on issues related to them. At the same time, special attention is paid to confidentiality of the information obtained as a result of the activities carried out at the places of deprivation of liberty.

During the visits, the representatives of the National Preventive Mechanism stuck up informative posters on the mandate and activity of the National Preventive Mechanism at the places of deprivation of liberty and provided the persons deprived of liberty with informative leaflets.

The monitoring related to the places of deprivation of liberty continued to be carried out with a special methodology, with immediate recommendations aimed at solving the issues identified by the

representatives of the National Preventive Mechanism as well as with requirements and recommendations submitted in writing to the competent authority after the necessary study.

First of all, each visit was preceded by a special discussion between the officers and experts of the National Preventive Mechanism unit aimed at clarifying the principles and methods of working practices at a specific place of deprivation of liberty as well as at summarizing the available information about the institution, clarifying the current problems and the level of fulfillment of the recommendations on solution to their previously identified problems and predetermining the target study issues.

During the visits, the conditions of detention and the previously identified systemic problems are studied, private interviews are held with the persons deprived of liberty and the staff of detention facilities, and the necessary documents are examined. During the visits, equipment to measure space, temperature and humidity are used.

The identified issues are discussed with the representatives of the administrations or directorates of the places of deprivation of liberty. Also, relevant documents regarding the persons deprived of liberty are examined, the obtained information is compared and analyzed, and the gaps and shortcomings in the legislative regulation are revealed.

Throughout 2022, the Human Rights Defender's Office held discussions on the issues identified as a result of the visits and consideration of individual complaints and on effective solutions thereto and required from the competent authorities clarifications with regard to the visits. Also, recommendations on making changes and amendments to the legal acts regulating the sector were presented.

Another source of the information for the Preventive Mechanism were the individual complaints submitted to the Human Rights Defender as well as the visits to the places of deprivation of liberty

and the content and studies published by the mass media, international entities, NGOs and monitoring groups.

The findings of the visits to the places of deprivation of liberty as well as the studies and analysis of the National Preventive Mechanism, along with the recommendations on the solution to the identified issues, were presented to the competent public authorities.

The Legal Counsel for Detainee automated system e-chat published by the Human Rights Defender continues to be actively operated. It contains more than 300 questions and answers on the rights of the persons deprived of liberty (Legal Counsel for Detainee automated system¹ in Messenger application of Facebook social network) and is available in Armenian and English. The automated system provides consultations to persons deprived of liberty, their relatives or any other persons on the rights of the persons deprived of liberty.²

For capacity building of the Human Rights Defender's Office, including the National Preventive Mechanism, regular measures are 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.

In 2022, the representatives of the National Preventive Mechanism attended both in person and remotely (via video calls) various events and professional discussions with the representatives of the public authorities and civil society. The Defender's Office held a number of internal discussions to develop the professional knowledge and skills of the representatives of the Office.

¹ The informative video on using the application is available at the webpage below: <https://ombuds.am/am/site/VideoGalleryView/334>

² The Human Rights Defender's legal standards have been published, and the Legal Counsel for Detainee automated system e-chat has been developed within the European Union programme Promotion and Protection of Human Rights, with the support of the UNDP, UNFPA and UNICEF.

The working activity of the National Preventive Mechanism also entails constant close cooperation with the National Preventive Mechanisms, national human rights institutions, international entities and organizations operating in this sector and other partners in different countries.

To present the issues identified during the activity of the Human Rights Defender as the National Preventive Mechanism, with regard to the concerns at separate places of deprivation of liberty, the mechanism of presenting such issues in *ad hoc* reports was chosen. Such approach made it possible to more comprehensively and thoroughly present the identified issues and submit express legislative and practical recommendations for sector reforms.

Hence, on 22 January 2022, the Human Rights Defender published an Ad-hoc Report on Ensuring the Rights of Persons with Mental Health Problems in Psychiatric Organizations. The main issues described in the Ad-hoc Report and the recommendations presented by the National Preventive Mechanism with regard to their solution are summarized in Chapter 3 of the Report on the Activity of the Human Rights Defender as the National Preventive Mechanism in the year of 2021.³

Also, on 14 November 2022, the Human Rights Defender published an Ad-hoc Report on Ensuring Rights of the Women, Juveniles and Foreigners Deprived of Liberty in the Penitentiary System.⁴ The Ad-hoc Report addresses the access for deprived women, juveniles and foreigners to necessary medical services, psychological support, conditions of detention, education, occupation, language barriers during communication and other issues.

³ See webpage: <https://www.ombuds.am/images/files/3167e2e8e2e90d939c4cfd7c644593f.pdf>

⁴ See webpage: <https://www.ombuds.am/images/files/99ffb65a452069620139868b8b271407.pdf>

CHAPTER 2. THE INTERNATIONAL INVOLVEMENT OF THE NATIONAL PREVENTIVE MECHANISM AND PARTICIPATION IN THE IMPLEMENTATION OF THE INTERNATIONAL STANDARDS IN THE COUNTRY

The activities of the National Preventive Mechanism entails cooperation and stable communication with the international partners and, primarily, with the UN Subcommittee on Prevention of Torture. Within the cooperation with international partners, the translations of the annual and *ad hoc* reports of the Human Rights Defender, in their capacity of the National Preventive Mechanism, are sent to the UN Committee against Torture, the Subcommittee on Prevention of Torture, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the European Court of Human Rights as well as to other international institutions operating in this sector, diplomatic missions, international non-governmental organizations, etc.

The Human Rights Defender also highlights international cooperation in securing human rights and introducing into the domestic law and law-enforcement practice the international standards for exclusion of torture and other forms of ill-treatment.

Also, within the Programme, on 27 June 2022, the Human Rights Defender's Office held a discussion on the International Day in Support of Victims of Torture. Apart from the representatives and experts of the Human Rights Defender's Office, the discussion was attended by the Representative of the RA Government for International Legal Affairs as well as by the representatives of the Department for Investigation of Particularly Important Cases of the General Military Investigative Department of the RA Investigative Committee, the RA Prosecutor General's Office and the RA National Security Service, Ministry of Labor and Social Affairs, Ministry of Health, Ministry of Justice, Penitentiary Medical Center SNCO, public watchdog groups and civil society representatives.

During the event, the participants discussed the cases of torture of Armenian prisoners of war and civilians during and after the 44-day war, the international legal processes with regard thereto and, most importantly, the issues of support provided by the state to the survivors of torture and their families. Also, the other discussed issues covered the cases and consequences identified as a result of the monitoring and fact-finding activity by the Defender's Office on the torture and war crimes committed by the Azerbaijani side during the war unleashed by Azerbaijan in 2020. The collected data on the torture, humiliations, ill-treatment based on ethnic and religious hatred committed and still continued against our compatriots in captivity and the issues related to the investigation into the cases of torture and ill-treatment in the RA and support of the victims were also presented.

Taking account of the critical objective of preventing torture as well as ill-treatment and violations of the rights of persons at places of deprivation of liberty, the Human Rights Defender's Office initiated within the Accountable Institutions and Human Rights Protection in Armenia project funded by the European Union, UNDP, UNICEF, UNFPA and OSCE a one-day training and discussion for the officers of the RA Police detention facilities for the arrestees. The trainings and discussions were held both in the city of Yerevan and in the communities of Goris in Syunik region (marz), Sevan in Gegharkunik region (marz) and Vanadzor in Lori region (marz) by covering the RA Police detention facilities located in all the RA regions (marzes).

This initiative arises from Article 29(5) of the Constitutional Law; accordingly: *the Defender may hold trainings for his Office as well as beneficiary authorities and organizations on the issues related to human rights and freedoms.* The trainings aimed to increase the professional capacities of the staff at the above-mentioned institutions and to contribute to broader realization of the Human Rights Defender's recommendations.

The training was conducted by the officers of the Department for Prevention of Torture and Ill-Treatment of the Human Rights Defender's Office. The training participants discussed issues related to provision of medical care and services for the persons deprived of liberty at detention facilities as

well as the conditions of detention and documentation of the exercise of the rights by the persons deprived of liberty as a guarantee for prevention of torture and ill-treatment and other issues. Also, the domestic and international standards in the field of prevention of torture and inhuman or degrading treatment or punishment and the mandate and functions of the Human Rights Defender as the National Preventive Mechanism were presented.

At the end of the training course, the RA police officers were awarded certificates of participation.

The working activity of the National Preventive Mechanism also entails constant close cooperation with the National Preventive Mechanisms, national human rights institutions, international entities and organizations operating in this sector and other partners in different countries.

For capacity building of the Human Rights Defender's institute, including the National Preventive Mechanism, regular measures are 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.

With this regard, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the case-law of the European Court of Human Rights have an invaluable role.

Another means of cooperation in execution of the European Court's judgments is Para. 2 of Rule 9 of the Rules of the Committee of Ministers for the Supervision of the Execution of the Judgments and of the Terms of Friendly Settlements. Accordingly, *the Committee of Ministers shall be entitled to consider any communication from national institutions for the promotion and protection of human rights, with regard to the execution of European Court's judgments.*

The RA Human Rights Defender presented to the Committee of Ministers of the Council of Europe a special position on execution of the judgment of the European Court of Human Rights on *Shirkhanyan v. Armenia* as to protection of the minimum rights of the persons deprived of liberty.

The submission of special positions on the execution of the judgments of the European Court of Human Rights on Armenia aims to promote more effective introduction of the European Court's legal standards in the legal system of Armenia.

This position presented to the Committee of Ministers addresses a number of principle issues for the execution of the judgment in question relating to compliance of the domestic regulations prescribing the rights of the persons deprived of liberty with the European Court's standards. Particularly, the case was securing the right to health care of the person deprived of liberty.

The Human Rights Defender will be consistent in participating in the process of execution of the European Court's judgments by acting as an independent source of information for the Court and by cooperating with the state system and civil society partners.

The Human Rights Defender's work with the international community has gained even more importance in the context of the hostilities unleashed by Azerbaijan against the Republic of Armenia on 13-15 September 2022 and the most serious challenges faced by Armenia. Hence, the hostilities unleashed by Azerbaijan on 13-15 September 2022 grossly violated the rights to life and health and other rights of tens of thousands of peaceful civilians. War crimes and crimes against humanity were committed against ethnic Armenians, which led to the torture and ill-treatment of ethnic Armenian military servicemen and civilians.

In this regard, the Human Rights Defender's Office carried out fact-finding activities and summarized the findings thereof in *ad hoc* non-public reports. These reports collect and provide with specific evidence the videos and images reflecting the atrocities and cruel treatment by the Azerbaijani armed forces towards the Armenian captives, civilians and the bodies of the victims, including women, which underwent a thorough analysis. Such attitude of the Azerbaijani armed

forces is the consequence of the systematic policy of Armenophobia carried out at the state level in Azerbaijan.

While preparing the above-mentioned reports, the Human Rights Defender's Office monitored the social networks and especially the Azerbaijani sources. As a result, numerous videos were found with direct evidence of the ethnically motivated war crimes and indescribable atrocities by the Azerbaijani armed forces against ethnic Armenian servicemen, including female military personnel and civilians.

It were the Azerbaijani servicemen who shot videos of such atrocities and it were the Azerbaijani sources that mostly shared them on social networks. The videos show episodes of torture and ill-treatment of ethnic Armenian servicemen and civilians with exceptional cynicism, including mutilation, particularly brutal violence, murders, desecrating the bodies of those killed, etc., which demonstrates religious hatred as well.

The obtained content was studied and evaluated by a special methodology to verify the authenticity of the information. Also, the content was translated to reveal the intentions of the representatives of the Azerbaijani armed forces and their attitude towards ethnic Armenians, which mostly repeated the Armenophobic statements of the Azerbaijani high-ranking politicians.

In this regard, essential analyses are also found in the Ad Hoc Report of the Human Rights Defender of Armenia on the Consequences of Azerbaijani Military Attack on the Republic of Armenia dated 16 September 2022 and in the updated Ad Hoc Public Report dated 4 October 2022.⁵

The above-mentioned reports were submitted to a number of international entities, international non-governmental organizations and mass media.

⁵ See webpages: <https://www.ombuds.am/images/files/163fcca24261af7864b6d9f4fcf1d365.pdf> and <https://www.ombuds.am/images/files/88015d8ec9e48d869bd8b706233613dd.pdf>

Also, the representatives of the Human Rights Defender had private interviews with the persons who returned from captivity in Azerbaijan. During their private interviews, they told about the torture and ill-treatment they faced by the Azerbaijani armed forces and representatives of other institutions during their captivity and deprivation of their liberty.

The information collected during the private interviews was summed up in the Ad-hoc non-public Report on Cruel Treatment and Torture of Armenian Captives as the Manifestation of the Policy of Armenophobia of Azerbaijan dated 16 September 2022 (see the Methodology of the Report).⁶

⁶ See webpage: <https://www.ombuds.am/images/files/d29fef274a384cab5fb0e3d14f16e6e4.pdf>

CHAPTER 3. PSYCHIATRIC ORGANIZATIONS

A person's mental health is the state of their psychological well-being in which they are able to fulfill their personal potential as well as to overcome the everyday stress, work effectively and contribute to the public life. Therefore, the promotion of mental health, its protection and rehabilitation should be in the focus of the public authorities.

A mentally healthy person strives to balance and develop all aspects of their "ego": physical, mental, cognitive, emotional, and behavioral. Hence, mental health is an integral part of a person's life, health and well-being. It serves as a basis for the capacities of both an individual and the public at large to think, to communicate with each other, to interact, and to lead a normal life.

The public perception and social stigma of the persons with mental health problems makes them more vulnerable. Persons with mental health problems are also vulnerable in terms of exercising and protecting their rights and are often left beyond various fields of public relations and life and decision-making on the issues relating to them.

The issue is particularly sensitive as it refers to the persons who might be kept at psychiatric organizations against their free will or due to their state of health are unable to raise their concerns or the cases of violation or interference with their rights. At psychiatric organizations, persons with mental health problems rely on the care and protection of the personnel, which requires special attention and professional approaches to working practices. Therefore, this sector calls for an ongoing thorough study, identification of systemic problems and highlighting specific directions to their solution.

The studies conducted by the Human Rights Defender for years show that mental health care in Armenia still continues to focus on long-term hospital treatment. As a result, psychiatric organizations have a large number of patients who are often deprived of the opportunity to raise

their issues on their own, due to their health problems. They often face various restrictions on exercising their rights. Taking this into account, monitoring the situation with 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.

Summing up the findings of the monitoring carried out by the National Preventive Mechanism in psychiatric organizations, on 22 January 2022 the Human Rights Defender published the Ad hoc Public Report on Ensuring Rights of Persons with Mental Health Problems in Psychiatric Organizations.⁷

The ad hoc Report provides details on the working activities carried out in the field of psychiatry and the solved and unsolved issues addressed by the Human Rights Defender as a National Preventive Mechanism in their annual reports on the activities in 2018, 2019 and 2020.⁸

The Report also sums up the current situation after the Ad hoc Public Report of the Human Rights Defender on Ensuring Rights of Persons with Mental Health Problems in Psychiatric Organizations⁹ published in 2018.

The monitoring carried out in psychiatric organizations in 2022 both examined the issues identified before and the steps taken to resolve them, and revealed new issues. A particular attention was paid to the preventive activities carried out in psychiatric organizations following COVID-19. Letters were addressed to the Ministry of Health, Ministry of Territorial Administration and Infrastructure and Ministry of Labor and Social Affairs with regard to the steps taken for the protection of the

⁷ See the Report at: <https://www.ombuds.am/images/files/0a236e05dd43675f5daf520f89688f47.pdf>

⁸ See: <https://www.ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf>
<https://www.ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf> and
<https://www.ombuds.am/images/files/11f00f3e87d3490e4e8c56f207e4bc85.pdf>

⁹ See: <https://www.ombuds.am/images/files/7fc26e97e3c21aaaeac56743c7b4aef7.pdf>

rights of the persons with mental health problems in the psychiatric organizations operating under their management. Also, monitoring visits were made.¹⁰

Before each monitoring visit, complaints and alerts addressed to the Human Rights Defender by the persons with mental health problems were studied and summarized by a special methodology. The identified issues were also studied during monitoring visits.

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

The visits to psychiatric organizations were planned taking into account the current positive COVID-19 cases in such organizations, administered vaccinations and other issues. By considering such issues, each time, the volume of the necessary individual protective measures was determined.

During the visits to the psychiatric organizations, a special methodology was applied in line with the guideline for monitoring activities in psychiatric organizations published by the Human Rights Defender in 2018 and developed together with the international experts and representatives of other countries.¹¹ Along with that, the representatives of the National Preventive Mechanism were guided by a new, internal monitoring guideline on the issues related to COVID-19 at the places of deprivation of liberty. The visits were made by express principles and the issues below were thoroughly examined: conditions where the persons with mental health problems were kept, the

¹² In 2022, monitoring visits were made to the following organizations: Avan Mental Health Center CJSC of the Ministry of Health of the Republic of Armenia, Vardenis Neuropsychological Social-Care Home SNCO of the RA Ministry of Labor and Social Affairs. For the purposes of accessibility in this Report, the names of the above-mentioned organizations are used without mentioning their departmental subordination and legal and organizational form.

¹¹ See: <https://ombuds.am/images/files/6d25a0333798d184a91cbe0242c4c34d.pdf>

situation with their rights, the level of preventive activities against the spread of COVID-19 and other key issues.

While the Human Rights Defender's representatives were fulfilling their powers, the personnel of the psychiatric organizations cooperated with them willingly and closely. This also refers to the collaborative efforts at non-working hours and days. The cooperation by such principle made it possible to ensure a comprehensive approach, including taking into account the observations of the psychiatric organizations personnel on the complications and problems faced in their work.

The Human Rights Defender's representatives used a special method to verify the information obtained as a result of their private interviews with the patients, including through clarification of the same issue in private interviews with other patients. Also, the documents on the persons, including the medical ones, were examined in detail. Discussions were also held with the personnel of the psychiatric organizations and the issues raised by them were recorded.

It is welcome that in 2022, the RA Minister of Health adopted a number of legal acts regulating the field of psychiatric care and services.

This Chapter presents the issues related to ensuring the rights of the persons with mental health problems in psychiatric organizations identified as a result of the monitoring by the National Preventive Mechanism throughout 2022 and the recommendations for resolving such issues.

3.1 Issues related to provision of mental health care: need for deinstitutionalization and uniform policy; psychiatric service fees

The centralization of psychiatric care and services or hospital institutionalization of the mental health care in Armenia and the inefficient use of community-based services continue to stand out as a systemic issue. The Defender reaffirms the position that while the Government has approved the perspective of a transition to de-institutionalization and community-based services, and certain

work has been done in some cases, still this is not enough. To shift to the model of community-based services, it is important and urgent to carry out work through public awareness campaigns to exclude social stigma towards persons with mental health problems. The issues below raise concern: no comprehensive approach is taken to solution of the systemic issues in the field of mental health care; there are no common standards for provision of paid services in psychiatric organizations, no strategic documents related to the above-mentioned issue have been developed, which would allow to settle the identified issues in frames of a uniform policy and to conduct adequate control over the sector, regardless of its departmental subordination.

Hence, it is necessary to:

- ✓ Develop strategic documents for deinstitutionalization in the mental health sector and transition to alternative services, taking into account the international standards, principles and the positive practices available in the sector;
- ✓ Define measures implying clear and practical steps aimed at full implementation of the initiated system of alternative services;
- ✓ Expand the scope of the available alternative services to assist the persons with mental health problems in their autonomy, involvement in the community life and other social issues;
- ✓ Conduct awareness-raising campaigns both on the available alternative services and on removing the persisting social stigma towards the persons with mental health problems;
- ✓ Coordinate the efforts of the competent authorities in the mental health sector and interrelated cooperation among them by conducting adequate control;
- ✓ Establish on behalf of the sector policy-making authority the lists of paid services under the guarantees provided by law to ensure free access to psychiatric care and services in order to exclude any unreasonable differences in the tariffs and types of paid services in psychiatric organizations;
- ✓ Provide the persons with mental health problems with complete and accessible information on provision of free psychiatric care and services.

3.2 Issues with ensuring the rights of legally incapable persons

For years, the National Preventive Mechanism has been concerned with the systemic issue that in some cases, the guardian of a person with mental health problems declared legally incapable is the institution where such person is placed. As a fundamental position, the Human Rights Defender has stated on many occasions that the guardian of a person with mental health problems should be, in no case, the psychiatric organization or a member of the medical personnel of the facilities where the person is placed and which organizes their treatment and care. Such context may cause an inevitable conflict of interest as well as serious concerns as to the guardian's impartiality and unbiased attitude. Moreover, it contradicts the international commitments undertaken by Armenia; therefore, the domestic legislative regulations should be reviewed immediately. Also, there are no mechanisms to replace the system of decision-making instead of a person with assisted decision-making models. And therefore, for the purpose of protection of the rights of persons declared legally incapable, the institute of legal incapacity should be immediately revised, and new institutes and mechanisms of assisted decision-making by the persons with mental health problems should be introduced. Also, it is essential to take into account the person's opinion in choosing a guardian as well as the introduction of support and control mechanisms for the guardian.

Hence, it is necessary to:

- ✓ *Take into account the opinion of the persons under guardianship/wards when assigning guardianship over the persons with mental health problems declared legally incapable;*
- ✓ *For the competent public authority: consider any existing disagreements between a guardian and the person under guardianship and any conflict of interests, when appointing a guardian;*
- ✓ *Develop mechanisms to support the persons under guardianship;*
- ✓ *For the guardianship and custodianship authority: exercise control over the guardians' activities in favor of the persons under guardianship;*
- ✓ *Regularly monitor the activities of the guardians and based on the findings, take the steps as prescribed by law;*

- ✓ *Immediately initiate legislative amendments to review the provisions in Article 37(4) and Article 41(2) of the RA Civil Code;*
- ✓ *Comply with the requirements set forth in Article 17(2) of the RA Law on Psychiatric Care and Services regarding the written informed consent of a person declared legally incapable as to receiving or refusing psychiatric intervention.*

3.3 Informed consent: voluntary and involuntary treatment

The practices of not complying with the legal regulations prescribed by the RA Law on Psychiatric Care and Services regarding receipt of psychiatric care and services is highly unacceptable. Particularly, the monitoring shows that in many cases, psychiatric facilities do not obtain the informed consent of a person to start treatment, or such consent is provided formally. This implies that by receiving from the admitted persons their formal applications for consent to treatment and hospitalization, which actually do not express the free and informed will of the persons with mental health problems, the psychiatric organizations bypass the judicial procedures of involuntary treatment as defined by the legislators to exclude arbitrary placement of persons in psychiatric organizations. During the visit by the National Preventive Mechanism, examination of the medical records showed that one of the patients was admitted to the institution on 16 May 2022, at 10:05 am. The medical records regarding the person contained no document with their written consent to receive in-patient treatment; nor was that person informed of the procedures for exercising their rights. It is noteworthy that at the time of the visit, more than 74 hours have passed since that person was admitted to the institution, but the psychiatric organization had not yet initiated towards him the procedure to start involuntary treatment. In fact, the person was kept there illegally. Moreover, from the very first day, treatment was prescribed to the person, which he continued to receive against his free will, as was also confirmed by the records made in the 'Unit Diary' register: *"...received the medicines forcibly..."* The monitoring at psychiatric institutions also revealed many cases when the persons with mental health problems stated that they wanted to be discharged from the institution, despite the fact that the psychiatric institution had received the person's documented

consent. For instance, during a visit, the National Preventive Mechanism recorded a case when some patients approached the medical personnel during the visit and said that they wanted to be discharged but the said request was not documented and no action was initiated in this connection.

In this regard, the findings of the monitoring at Dzorak Care Center also raise concerns. The monitoring revealed that the persons under the care of the institution did not provide any consent to receive medical care and services, including psychiatric care, despite the fact that they were administered both somatic and psychiatric care and services and underwent various medical interventions and laboratory and instrumental tests. Moreover, not only did not the persons receiving psychiatric care (taking psychotropic medicines) give their informed consent to that, but also, the procedure for involuntary treatment as provided by the RA law was not initiated towards them, and most of those persons did not want to undergo any medical examination, fluorography or take any medicines. The difficulties related to taking medicines are also indicated by the fact that medicines are given to those persons without their knowledge, by adding them to their juice or meals.

In this regard, it is also essential that patients give their informed consent to psychiatric care and services and that they are aware of their rights. The problem is also a consequence of the lack of awareness among the medical personnel of psychiatric institutions of the legal basis and procedures for the administration of voluntary and involuntary treatment. In addition, being in need of care or being abandoned by relatives may not be considered sufficient grounds for keeping a person at a psychiatric institution. In this case, another systemic issue arises - the efficiency of community-based services or institutions providing social care to persons with mental health problems.

Taking account of the issues raised above, it is necessary to:

- ✓ ***Take steps to provide accurate information on a person's right to give or not to give consent to hospitalization and treatment in a psychiatric organization, to review their consent later, or to***

refuse treatment as well as on the possibility of a person admitted to the psychiatric organization voluntarily to leave such organization and on their other rights;

- ✓ *Obtain informed consent for hospitalization and treatment of persons with mental health problems;*
- ✓ *Promote awareness-raising campaigns for the medical personnel of psychiatric organizations on the legal basis and procedures for voluntary and involuntary treatment;*
- ✓ *Exclude initiation of the procedure of involuntary treatment towards persons with mental health problems without appropriate legal grounds in place;*
- ✓ *Record in the hospitalization and treatment consents the date of submission thereof;*
- ✓ *Comply with the requirements set forth in Article 17(2) of the RA Law on Psychiatric Care and Services regarding the written informed consent of a person declared legally incapable as to receiving or refusing psychiatric intervention;*
- ✓ *Set in the RA Civil Procedure Code the terms for the trial proceedings to annul a court judgment on subjecting a person to involuntary treatment as well as to involuntary hospitalization.*

3.4 Lack of state control over execution of judicial acts on imposing medical coercive measures by courts on persons with mental health problems

The studies during the monitoring visits by the National Preventive Mechanism identified issues related to the lack of state control over the execution of the judicial acts on imposing medical coercive measures by the courts on persons with mental health problems and over the course of execution of such judgments. Particularly, the monitoring visit to Dzorak Care Center revealed with regard to a person kept there that the General Jurisdiction Court of Yerevan City made a judgment imposing on him compulsory treatment at a general psychiatric hospital. The examination of the case showed that after issuance of the judgment, the person was transferred to Dzorak Care Center and stayed there by the time of the visit, despite the fact that the institution was not entitled to administer compulsory treatment. The study of the matter also revealed that the person in question

had never undergone compulsory treatment at any institution whatsoever. Letters were sent to the competent authorities with regard to this matter. Hence, issues related to execution of judicial acts made by courts and control over such judicial acts are problematic, and such issues should get a legislative solution in a short term.

Therefore, active steps should be taken to settle within the law the process of executing judicial acts on compulsory treatment and the issues of control over execution of such acts.

3.5 Issues arising in the course of providing psychiatric care and services to persons with speech and hearing disorders and to foreigners

The monitoring conducted by the National Preventive Mechanism identified another systemic problem. Provision of psychiatric care and services to persons with speech and hearing impairments and foreigners raises concerns. Particularly, during their visit to Avan Mental Health Center, the National Preventive Mechanism revealed that due to the language barrier, the psychiatric care and service of a person were provided in violation of the requirements of law: it was not possible to hear from the person their complaints as to their health and to notify them in a language they could understand of their rights and the mechanisms for protection thereof, and the person had been deprived of the opportunity to express their position, including on receiving psychiatric care and services, as a result whereof, measures of restraint were applied.

Hence, adequate provision of psychiatric care and services to persons with speech and hearing impairments and foreigners at psychiatric institutions requires ensuring access to translation services of appropriate specialization.

3.6 The situation with taking preventive measures due to COVID-19

The studies carried out during the monitoring show that the monitored psychiatric organizations recorded COVID-19 positive cases among persons with mental health problems in 2022. Issues were identified both with regard to organization of examinations of the patients and recording of the positive cases, and within the processes of their isolation in the units and prevention of the spread of infection. For instance, only the patients with high temperature took PCR (polymerase chain reaction) test (Gyumri Mental Health Center). Also, at the above-mentioned Center, no preventive examinations were conducted among the other patients (contacts held in the same ward) due to the COVID-19 positive cases.

While before the monitoring at Avan Mental Health Center, COVID-19 positive cases had been recorded there, no preventive measures were properly taken: the visitors were not informed of the infection; not everyone wore protective masks and observed the preventive sanitary rules.

In the monitored psychiatric organizations, the majority of the patients were vaccinated against COVID-19; however, there were no available written consents of the patients to receive a vaccine against COVID-19. It turns out that the patients underwent medical intervention, that is, preventive vaccination, against their free will, which does not arise from the obligation to ensure the person's right to health care.

With this regard, it should be highlighted once again that subjecting a patient to medical intervention, in this case to preventive vaccination, against their free will does not arise from the obligation to ensure the person's right to health care but on the contrary, may cause violation of the right to physical and mental integrity and the right to be free from inhuman treatment.

Therefore, it is necessary to:

- ✓ *Organize at the psychiatric organizations all the measures to prevent the spread of COVID-19 and strengthen control over such measures;*
- ✓ *Subject a person to medical intervention, including vaccinations, regardless of their objectives and medical necessity, based on their informed consent.*

3.7 Restraints

The use of restraints in psychiatric organizations and the issues related to the legal bases thereof continue to raise concern.

Practically, it has been recorded that not all psychiatric organizations have separate rooms equipped for the use of restraints, as a result whereof, restraints were used in the wards and in the corridors of the units in the presence of the other patients, which is impermissible and contradicts the RA law.

Another concern is the comfort of the restraints in psychiatric organizations. It was quite difficult to apply and unfasten the monitored restraints.

For instance, the monitoring in Gyumri Mental Health Center has shown that to apply a physical restraint to a patient in the female ward, the mattress on the bed must be raised to fasten the belts of the restraint to the side supports of the bed. It is noteworthy that this may create additional difficulties in the immediate and effective application of a physical restraint and increase the risk of trauma and use of disproportionate force. Two thick leather fasteners with metal locks and keys were used as mechanical means of restraint.

At Avan Mental Health Center, to fully immobilize the patient, additional belts and cloths were used along with the intended restraint, which were difficult to unfasten.

Another problem is the lack of training and skills among the medical personnel in using the restraints.

The monitoring identified issues related to use by the medical personnel of medical restraint to the patient in the corridor of the unit and also use of disproportionate physical force at that time. The medical staff members were trying to restrain the patient with their legs, arms and even with their whole body, which might cause various injuries.

It is essential to regulate the use of physical force as a means of restraint at the legislative level and to prescribe regulatory norms. **While the RA Law on Psychiatric Care and Services also provides for the use of physical force as a means of restraint, the effective legislation still does not provide for a clear mechanism or procedure for the use of physical force and keeping records of such use.** In the psychiatric organizations without any psychiatrists on duty for 24 hours, the physical restraint of patients on non-working days and at non-working hours is performed by the nurse and hospital attendant on duty at the unit as they are the only personnel on duty at such time. In case of using restraints in psychiatric organizations, the patients do not undergo adequate examination, and the requirements established by law, including the procedure for recording the rationale for the decision to use or terminate the use of physical and medical (pharmacological) sedatives, are not observed. **The above-mentioned practices are problematic in terms of case management as well as evaluation of the effectiveness of each of the applied restraints and highlighting their combination.**

The monitoring identified some cases when at admission to the institution or during their stay there, the patients were administered other medicines beyond the prescribed course of treatment, in some cases by one-time prescription, but such cases were not registered as means of medical sedation.

Another issue continuing to raise concern is the use of sedatives not prescribed by law. For instance, Avan Mental Health Center practiced injections of Dimedrol solution with Sibazon solution as a sedative. The former is not included as a sedative in the list of authorized medicines as defined by

law. It is noteworthy that the patient's medical records have no mention on the reasoning of the injection of Dimedrol solution as a means to manage the side effect of a sedative (corrector or a medicine regulating the somatic state).

In some cases, only the fact of prescribing the medication was recorded, without any description of the person's mental state or information on the need for the prescribed medication.

The combined use of physical restraints and sedatives without adequate reasoning remains an issue of concern. None of the monitored psychiatric organizations using physical restraints together with sedatives substantiated the need for combining such means. The patients administered sedatives do not undergo adequate examination, and the legislative requirements are not observed. Also, the procedure for recording the rationale for the decision to use or terminate the use of medical sedation method is not observed.

Taking into account the foregoing, it is necessary to:

- ✓ *Provide rooms for use of restraints in the units of psychiatric organizations;*
- ✓ *Exclude the use of restraints on persons with mental health problems in wards or in any places not intended for the use thereof, in the presence of other patients or persons under care of the organization;*
- ✓ *Ensure practical compliance with the legislative requirements on the procedure for applying physical restraints, seclusion measures and sedation methods;*
- ✓ *Ensure that the mechanical means of physical restraint are non-traumatic and easily unbound, cause no pain to the patients and pose no threats to their health;*
- ✓ *Keep proper records of the reasoning for the decisions to use or terminate the use of physical restraints or seclusion measures prescribed by law;*
- ✓ *Carry out adequate medical surveillance in case of using any restraints;*

- ✓ *Develop a methodology for the use of physical force and hold trainings for the medical personnel;*
- ✓ *Hold regular trainings for the medical personnel on the methods of and procedure for using restraints and the procedure for filling in the registers;*
- ✓ *Regularly inform the administrations and medical personnel of the psychiatric organizations of the legislative regulations in the sector;*
- ✓ *Exclude the use of any medicines not prescribed by law as sedatives;*
- ✓ *Properly arrange the recording of the reasons for the decisions to use or terminate the use of a sedative;*
- ✓ *Conduct adequate surveillance over the patients administered sedatives, by making records thereon in the prescribed manner.*

3.8 Medicines and medical supplies

In various psychiatric organizations, medication-assisted therapy continues to prevail in the individual treatment plans of the persons with mental health problems, and almost no alternative (art therapy, educational, occupational, work, etc.) treatment plans are applied.

The availability of expired medicines in psychiatric organizations as well as violations of the medicine storage requirements and conditions and the proper disposal thereof still continue to raise concerns. The psychiatric organizations have no uniform policy of control over the medicines brought by the relatives of the patients, which, in its turn, makes it difficult to conduct proper control over such medicines. Also, the monitoring visits identified issues related to registration of the medicines in the psychiatric organizations. In both psychotropic and somatic medication record registers, the notes on the balance of the medicines had numerous deletions and corrections. Moreover, in some cases, the balance of the medicines was not recorded, or the quantitative data on the record of a medicine were not confirmed by a health provider's signature (Gyumri Mental Health Center). This might also lead to abuse.

Taking into account the foregoing, it is necessary to:

- ✓ *Conduct adequate control over circulation in psychiatric organizations of any medicines with unknown expiry date or expired medicines and medical supplies, including over the use thereof to exclude any such practices;*
- ✓ *Provide in psychiatric organizations safe and appropriate conditions for storage of medicines, including psychotropic medicines;*
- ✓ *Conduct strict control over the management and actual registration of psychotropic medicines;*
- ✓ *Take steps to ensure proper record-keeping and control over the documents on narcotic drugs and psychotropic (psychoactive) medicines;*
- ✓ *Establish express procedures for circulating within the psychiatric organization of the medicines brought by the relatives of the patients, including with strict control over the expiry dates.*

3.9 Laboratory and other examinations

To properly organize the treatment and care of the persons with mental health problems in the psychiatric organizations, it is necessary to conduct laboratory and instrumental examinations.

The Decree No 49-N of the RA Minister of Health on Approving the Standard for Organizing and Providing State-Guaranteed Free Psychiatric Care and Services dated 2 August 2022 approves the scope of the laboratory and instrumental examinations for the persons hospitalized for the purpose of receiving in-patient psychiatric care and services. However, the psychiatric institutions monitored as of the time of the monitoring visits, established their own process, scope, frequency and requirements for conducting laboratory and instrumental examinations, by considering in some cases the possibility of conducting them in psychiatric organizations.

The monitoring revealed that out of the monitored psychiatric organizations, only Gyumri Mental Health Center is licensed to provide diagnostic laboratory services, with certain volume capacities. Particularly, the patients admitted to Gyumri Mental Health Center take total blood count and general urine tests, have their blood sugar and bilirubin levels determined and undergo electrocardiogram, and persons with mental health problems treated in the in-patient unit monthly take total blood count and general urine tests and if administered Azaleptin (Clozapine), they take monthly total blood count (with leukocyte formula count).

The patients of Dzorak Care Center underwent regular and on an as-needed basis laboratory and instrumental examination at the Polyclinic No 16 State Health Closed Joint-Stock Company once a year.

Fluorography examinations at Dzorak Care Center raise reasonable concerns. Particularly, before the day of the National Preventive Mechanism visit, the patients there had not undergone any fluorography examination, and on the day of the visit, the fluorography examinations were initiated by the National Center of Pulmonology SNCO.

Based on the foregoing:

- ✓ *Set a schedule and conduct regular leukocyte formula count among the persons receiving Azaleptin medicine for a long time;*
- ✓ *Set a schedule for long-term care patients in psychiatric organizations and conduct regular fluorography examinations to prevent tuberculosis.*

3.10 Access to specialized medical services

The law of the Republic of Armenia does not provide for a clear list of narrow-specialization doctors (except for psychiatrists) and medical personnel in psychiatric organizations. For this reason, all the

monitored psychiatric organizations concluded contracts on using narrow-specialization medical services with the regional multispecialty or primary healthcare institutions. In psychiatric organizations, consultations of medical specialists or necessary medical interventions are conducted on a strictly necessary basis or at the discretion of the management. A common issue is still considered the organization of treatment of the dental problems of the persons with mental health problems in psychiatric institutions: partial or complete adentia as well as treatment of teeth or gums and prosthetics. Dental problems may lead to malnutrition and have negative consequences. Despite the fact that some psychiatric organizations have dental services (at the time of the visit, the dentist of Dzorak Mental Health Center was on leave to care for a child under 3), the dental care for the persons with mental health problems is not organized properly, which raises great concerns.

Another concern is the lack of psychiatrists on round-the-clock duty shifts in some psychiatric organizations. In this regard, the situation is problematic in Gyumri Mental Health Center as there is no psychiatrist on duty there on non-working days and hours.

The issue of filling the vacancies of psychiatrists and the relatively small number of psychiatrists in the RA still raise concern.

The issues related to organizing the in-patient treatment for somatic disorders of the persons with mental health problems in multi-profile medical facilities continue to be worrisome. Sometimes, such medical facilities refuse to provide proper care to the persons with mental health problems for the necessary time or require that the nursing services are provided by the psychiatric organization. Due to the difficulties in providing additional services, it is sometimes difficult for the patients to be admitted to medical centers or they are discharged without final recovery.

In case of the need for treatment in multi-profile medical facilities, the patient's care is mostly provided by the secondary medical personnel of the serving psychiatric organization (except for the health problem related to pneumonia, where the patient's care is provided in the isolated unit of the

National Center of Pulmonology SNCO). A nurse (paramedic) of the psychiatric organization constantly accompanies the person with mental health problems throughout their treatment at another medical center. It turns out that the medical staff member takes care of the patient for a long time, away from their place of residence and family.

Hence, an additional burden is placed on the nurse of the psychiatric organization. This is also a concern in terms of provision of food for the patient and for the medical staff member and maintenance of the latter's social ties.

Based on the foregoing:

- ✓ *Define clear mechanisms for properly organizing at other medical centers the in-patient treatment and care due to somatic diseases of persons with mental health problems from the organization providing psychiatric medical care and services;*
- ✓ *Establish a compulsory list of positions for narrow specialists in psychiatric organizations by ensuring a uniform approach to service delivery;*
- ✓ *Properly organize dental care for persons with mental health problems in psychiatric organizations, including prosthetics;*
- ✓ *Take active steps to fill the vacancies of psychiatrists.*

3.11 Issues with providing medical examinations and treatment for Hepatitis C in psychiatric organizations

The monitoring carried out by the National Preventive Mechanism in psychiatric facilities identified the systemic issue of absence of any medical examinations and treatment for Hepatitis C, due to the lack of respective procedures. For instance, the monitoring at Gyumri Mental Health Center has revealed that the institution has no positions for doctors with any other specializations and that the narcologist included in the medical personnel is a therapist by main specialization and provides counseling to patients as necessary. Also, it was revealed that if necessary, persons with mental health problems are transferred to specialized medical centers. In one of the cases, at least one of the

long-term care patients regularly had high temperature. The patient was diagnosed with Hepatitis C but no examination or treatment for that disease was provided to the patient at the institution. Such practices raise deep concerns. The psychiatric organizations should take a systemic approach to this matter. It is also problematic that the programs on providing free diagnosing and treatment of Hepatitis C in Armenia have no procedures for including persons with mental health problems as to the institutions providing psychiatric care and services, despite the availability of appropriate legal basis for this (Annex 1 approved by the Decree No 65-N of the RA Health Minister of 18 October 2013, Decree No 3064-L of the RA Minister of Health dated 12 August 2021).

Hence, procedures should be developed for psychiatric organizations to provide diagnosing, necessary examinations and treatment of Hepatitis C.

3.12 In-patient psychiatric care and services provided to juveniles with mental health problems

At the time of the monitoring visit, 6 juveniles were held in the furnished, renovated and separate children's unit of Avan Mental Health Center.

Provision of in-patient psychiatric care and services for the juveniles living in remote regions (marzes) still continues to be problematic. In the case of acute psychiatric symptoms, when in-patient examination or treatment is needed, patients should be transferred to Yerevan by an emergency medical service vehicle which is charged a considerable amount. This causes not only financial difficulties but also a number of social issues for both the juvenile and their family (e.g. organizing the juvenile's care, being away from family, etc.).

For the above-mentioned reason, in some cases the juvenile's family members are unable, due to their social issues, to transfer the child to respective medical institution and only in extreme cases turn to the help of psychiatrists.

Problems were recorded at the children's unit of Avan Mental Health Center, where 10- and 14-year-old patients of different genders received medical care and services in the same ward. At the time of the visit, the children's unit had no separate equipped room for restraint, and the means of restraint was applied in one of the wards, provided that the patients of that ward were kept in the corridor at that time. This creates further difficulties in terms of timely and effective performance of the restraint of the patient, if the other patients of the ward should be called out at that moment. Another problem is the availability of restraints in the ward, which in itself causes psychological pressure on the patients receiving treatment and care in such ward, and in case the restraints are applied to other patients, the problematic issue is related to the patients' access to their ward as necessary. Furthermore, during the visit, the bedding on the bed whereon the restraint was fixed was already in use and was not changed even during the 2 consecutive case of applying the means of restraints.

It is noteworthy that in one of the cases, restraints were applied to a juvenile due to his refusal to stay in the unit without his parents and demonstration of stubborn and disobedient behavior. Whereas, the use of restraints in such cases is not compliant with the legislative requirements, which is impermissible. Restraints may be applied only in the specific cases provided by law. Moreover, before applying mechanical means of restraint to a patient, four staff members of the unit had tried at a time to restrain him by using physical force. One of them even tried to use his legs to keep the juvenile patient's body in the convenient position. In this context, the lack of methodological guidelines and instructions for the use of restraints and the lack of capacity building trainings for the medical personnel to develop their skills are problematic. In another case, a sedative was applied to a juvenile (furthermore, in combination with Dimedrol solution, medication not prescribed by law) right in the corridor of the unit, in the presence of other juvenile patients, and only after his conduct was calmed to a certain extent, the juvenile was transferred to the ward, and physical restraint was applied. It is noteworthy that in the cases of applying restraints, no proper medical surveillance was provided to juvenile patients; they were left in the ward alone, behind closed doors.

Another problem is related to the meals of juvenile patients. They are served 3 meals a day: at 10 am, between 1 pm and 2 pm and at 6 pm. Due to the uneven distribution of breaks among their meals, children are actually hungry for a long time in the evening. Moreover, they take medicines mostly 4 times a day (the last one before going to bed at 10 pm) and often feel hungry.

Another concern is arranging walks for juvenile patients in the yard of the institution as due to the insufficient number of the medical personnel, they may end up in the yard or in the unit without sufficient surveillance. Furthermore, the conventionally separated walk area was not equipped with a shelter for bad weather conditions or an adequately furnished playground.

Taking into account the foregoing, it is necessary to:

- ✓ *Develop a procedure for transferring juveniles with mental health problems to appropriate medical facilities free of charge in order to improve in-patient psychiatric care and services for the population in the regions (marzes);*
- ✓ *When placing patients in wards, take into account their gender as well as age features and the common accommodation rules;*
- ✓ *Provide in the children's ward a separate and properly equipped room for restraint;*
- ✓ *Exclude the applications of restraints to juveniles in wards or in places not intended for their application, in the presence of other patients or persons under care of the institution;*
- ✓ *Ensure practical compliance with the legislative requirements on the procedure for applying physical restraints, seclusion measures and sedation methods;*
- ✓ *Hold regular trainings for the medical personnel on the methods of and procedure for applying restraints to juvenile patients and the procedure for filling in the registers;*
- ✓ *Regularly inform the administrations and medical personnel of psychiatric organizations of the legislative regulations in the field;*
- ✓ *Exclude the use of any medicines not prescribed by law as sedatives;*
- ✓ *Properly arrange the recording of the reasons for the decisions to use or terminate the use of a medical sedatives;*

- ✓ *Conduct adequate surveillance over the juvenile patients subjected to any restraint, by making records thereon in the prescribed manner;*
- ✓ *Furnish the yard for walks separated for the children's unit and properly arrange walks for juvenile patients;*
- ✓ *Review the meals of the juvenile patients by setting them at least 4 times a day and at adequate intervals, so that they do not feel hungry.*

3.13 Issues with making records on injuries and reporting them to law-enforcement agencies

While receiving medical care and services at psychiatric organizations, persons with mental health problems can sometimes incur physical injuries for various reasons, including suffer physical or psychological abuse.

The psychiatric organizations apply different procedures to identify and record injuries of the patients. Moreover, these procedures vary even among different departments of the same organization, which may appear problematic in terms of prevention and identification of cases of violence. In psychiatric organizations, proper recording of injuries and timely reporting thereof to the law-enforcement agencies is particularly essential to secure the rights and safety of the persons with mental health problems. Effective coordination of work in this respect requires common practices. It is noteworthy that there is no approved uniform procedure by any competent authorities for recording injuries in psychiatric organizations and reporting them to the law-enforcement agencies, and the organizations continue to act at their own discretion.

The worst concerns arise from the cases when injuries are not recorded or when only certain cases are recorded. Such practices were recorded during the monitoring carried out by the National Preventive Mechanism. The injuries identified in the patients in the units of Gyumri Mental Health Center are recorded in the register mapped out by the medical personnel. Moreover, the above-mentioned registers different in their form and content among different departments. It is

noteworthy that on non-working days and hours, the information on the injuries identified on the patients admitted to the said Center is not recorded in the respective register kept at the reception.

At the time of the monitoring visit to Gyumri Mental Health Center, the Register on Records of Injuries in Psychiatric Female Ward was kept in the female ward; in 2021, the Register had entries on 6 cases in March, May, August and November. In the male ward, 2 different registers were kept since 1 December 2019: Records on Emergency Cases and Trauma Reporting.

The Register on Records Reported to the Law-Enforcement Agencies regarding the injuries identified on the admitted patients kept at the reception since 8 January 2020 had 2 entries on 23 November 2021 and 6 December 2021. The Register on the Patients Transferred to (Seeking Care with) the Medical Facilities or Corpse kept since 2 March 2021 had no entries at the time of the visit.

The examination of the records in the entries in the Registers on Records of Emergency Cases in the male ward of Gyumri Mental Health Center revealed that the last entry in the register was made on 15 May 2022, at 8:03 pm, but the victim's personal data were not filled in at the time of the visit. As of that day, the registers on injury records kept at the units contained no identification data on any patient either. As a result, it was impossible to identify the data regarding the injured person, the incurred injury or the causes thereof. **Such practices are highly unacceptable and do not contribute to the prevention and proper examination of ill-treatment cases.**

At the time of the visit to the male ward of Gyumri Mental Health Center, the Trauma Reporting register had 2 entries on injuries. At that, the first entry was made in 2019 and the second one - on 22 February 2022, whereas the Register on Records of Emergency Cases contained more, a total of 9 entries for that timeframe and they did not correspond to the data available in the Trauma Reporting register. The comparison of the registers examined in the female ward of Gyumri Mental Health Center revealed that they did not reflect the real picture of the injuries of the unit patients. Hence, the entries made in the Register on Records of Injuries in Psychiatric Female Ward did not match

with the data available in the registers on Records of Emergency Cases and Records Reported to the Law-Enforcement Agencies kept by the said Center. Hence, the institution reported to the Police only 1 case from among the 13 entries recorded in the Register on Records of Injuries in Psychiatric Female Ward since 1 December 2019, with a respective record available in the Register on Records of Emergency Cases. This indicates a discretionary approach and lack of clear criteria as to reporting injuries to law-enforcement agencies. At that, the entries on that case made in the above-mentioned 2 registers differed significantly; particularly, the Register on Records of Injuries in Psychiatric Female Ward states that the patient was admitted to the Unit "with a slight injury of the nose and a bruise under the right eye" and the incident occurred and the entry was made on 26 August 2021, whereas the Register on Records of Emergency Cases states that the same patient "incurred a scratched wound and a slight bruise in the area of the nose", and the incident occurred and the entry was made on 27 August 2021. With regard to another incident, an entry was made in the Register on Records of Emergency Cases on 9 July 2021 regarding the patient that the patient had "multiple bruises in different parts of the body: arms, legs, back and chest" and it was reported to the Police. It is noteworthy that the Registers on Records of Injuries in Psychiatric Female Ward and on Records Reported to the Law-Enforcement Agencies contain no data on the injuries sustained by that person. Such practices of keeping the registers of psychiatric institutions are problematic in terms of practically ensuring uniformity of data recording. It is not clear what principle is used to determine the particular register kept at the institution where the incident of any injury incurred by the injured person is to be recorded and to determine the incidents that the institution reports to the Police. Another problematic issue is the inappropriate description of the sustained injuries. The monitoring revealed that the entries on the injuries incurred by the patients in psychiatric organizations had no detailed description by a specialist of the injuries and of how they were sustained. For instance, such entries do not provide a complete picture of the findings of an external medical examination, the precise anatomical location, color, surface and any other criteria describing the injury. The records also lack the doctor's opinion, in combination with the objective description of the injury and the patient's statement on the causes of the injury. Also, injuries are not recorded in any diagrams or photos. The lack of the above-mentioned recording criteria is inconsistent with the primary

objectives and requirements of examination. Hence, due to the lack of a uniform procedure by a competent public authority, the principles of recording injuries incurred in psychiatric organizations and of reporting them to the law-enforcement agencies differ and do not reflect the true picture of ensuring the safety of the persons in psychiatric organizations as well as prevention of torture, other cruel, inhuman or degrading treatment and the efforts aimed at effective investigation into such cases. Also, problems were identified at Dzorak Care Center where various incidents of injuries sustained by the patients were identified in 2022, which were not recorded in respective registers, and none of them was reported to the law-enforcement agencies. With regard to the injuries sustained by their patients, the medical personnel reports to the law-enforcement agencies only the "serious" incidents at their own discretion, when the patient needs to be transferred to medical facilities which will at any rate report the information to the law-enforcement agencies. Such practices raise deep concerns. Moreover, Dzorak Care Center registered the reports on injuries to the law-enforcement agencies in a format not provided for by law. According to the title page of the register kept by the Center on Recording Suspicious Cases of Violence against or among the Persons under Care of the State Non-Commercial Organizations Providing Care Services to Elderly Persons and Adults with Disabilities over the Age of 18 and Suspicious Cases of Injuries Sustained by Them, the register was drafted based on Annex 2 to the Decree 140A/1 of the RA Minister of Labor and Social Affairs dated 23 October 2019, but the indicated provision had become invalid as of the time of keeping that register.

It is noteworthy that the Decree No 171-A/1 of the RA Minister of Labor and Social Affairs dated 9 November 2021 approved the procedure for identifying and preventing the cases of violence against elderly beneficiaries and/or beneficiaries with disabilities at the round-the-clock care institutions of the social security of the population operating under the RA Ministry of Labor and Social Affairs as well as the procedure for reporting to the competent authorities and for providing social and psychological support to the survivors of violence and the forms of respective register, report and social and psychological rehabilitation program. **Hence, the reports on injuries to the law-enforcement agencies were recorded in a format not provided for by law.**

Taking into account the foregoing, it is necessary to:

- ✓ *Develop templates for conducting medical examinations with regard to torture, inhuman or degrading treatment in psychiatric organizations and for recording such examinations as well as guidelines for filling out such templates;*
- ✓ *Make proper records in respective documents on the injuries of the persons admitted to psychiatric organizations and receiving treatment or care there, by making sure that such injuries are described by a specialist;*
- ✓ *Establish for the organizations providing psychiatric care and services a procedure for making proper records on the injuries of the persons receiving treatment and care there and for reporting such injuries to the law-enforcement agencies;*
- ✓ *Hold trainings for medical personnel on proper registration of the persons with injuries admitted to organizations providing psychiatric care and services and on reporting such injuries to the law-enforcement agencies.*

3.14 Medical record-keeping and arranging medical interventions

The medical facilities keep record of the data on the receipt by the persons with mental health problems of medical care and services as well as on the course and outcomes of such care and services in medical documents and particularly, in patients' medical records and medical cards. Along with the aforementioned information, these documents also record essential information on limitations of the patient's rights, grounds for such limitations and other issues.

While the procedures for keeping various medical documents are defined by law, still due to the lack of special procedures, the issue of a uniform approach to managing the patient's files and making respective records in the patient's medical records still remains problematic in psychiatric organizations. The monitoring of the psychiatric organizations shows that the patients' medical

records in different organizations are filled out in different, non-uniform ways and at different frequencies.

According to the examination of the patients' medical records, most of the chronic patients' medical records at Gyumri Mental Health Center within the past 5-6 months lacked any entries on the dynamics in the patients' state of health. It is noteworthy that according to Gyumri Mental Health Center's medical personnel, in case of "acute cases", the patients' medical records are filled out on a daily basis. Along with stabilization of the patients' mental state, respective entries are made weekly or 2-3 times per month. The medical records of the chronic patients receiving long-term treatment and care at the Center are filled out on a monthly basis.

Apart from the aforesaid, when persons with mental health problems are kept in psychiatric organizations for long, the pages of the patients' medical records are usually not sufficient and as a result, more pages are added to such medical records. There are no uniform rules or practices in this regard either.

Another problematic issue is keeping the registers and specifically, the registers of somatic and psychotropic medicines with deletions and corrections.

Improper medical record-keeping is problematic in terms of ensuring and monitoring the rights of the persons with mental health problems as well as in terms of assessing a person's appropriate treatment or reasoning for limitations of their rights.

It is worrisome that there is no legal act available to prescribe the medical record templates in special type (specialized) care facilities and the procedure for keeping such records. Nevertheless, the care centers for persons with mental health problems keep an **"adult's out-patient medical card"** for each person under their care starting from their admission day.

Summing up the foregoing, it is necessary to:

- ✓ *Set common standards for medical record-keeping in psychiatric organizations as well as ensure proper record-keeping and conduct strict control over such records;*
- ✓ *Develop medical record templates in special type (specialized) care facilities and the procedure for keeping such records;*
- ✓ *Set the frequency of and procedure for medical examination of the persons under care of the special type (specialized) institutions.*

3.15 Medical personnel, working conditions and social guarantees

Human rights protection requires a comprehensive approach. In this regard, it is essential to protect the working conditions and rights of the staff who provide patients of the special (specialized) institutions with care, including medical and psychological assistance.

The access of the personnel of the psychiatric organizations to favorable working conditions is constantly in the focus of the Human Rights Defender's attention. Improving the working conditions for the personnel ranges among the key components for ensuring the normal operation of such institutions. A crucial prerequisite for improving the working conditions is filling the vacancies and adding new positions, which will reduce the workload of the employees and will contribute to proper performance of their job responsibilities and improved efficiency.

For years, the monitoring visits by the National Preventive Mechanism have recorded insufficient and disproportionate distribution of positions. Particularly, the care of more than 50 persons in the 2nd unit and about 20 persons in the 1st unit of Dzorak Care Center for persons with mental health problems is provided by 1 shift hospital attendant and 1 nurse (on a 24-hour shift). As a result, it is difficult to arrange the proper care and surveillance of the persons with mental health problems at

Dzorak Care Center and it is necessary to increase the number of the service staff. The small number of the social workers and psychologists raises concern as well.

At the time of the monitoring visit to Gyumri Mental Health Center, 2 psychiatrist positions were vacant. The analysis of the provided documents has shown that at the units with more than 50 persons with mental health problems, the medical personnel included a nurse on duty (on a 24-hour shift), a senior nurse, a psychiatrist (on working days from 9 am to 4:45 pm) and a hospital attendant on duty. Each psychiatrist treats up to 30 patients. Hence, given this, it is obviously impossible to provide proper care and surveillance of the persons with mental health problems, and it is necessary to add staff.

At Gyumri Mental Health Center, due to the absence of a doctor on non-working days and hours, it is the nurses on duty who arrange the admission of patients, and in exceptional cases, the psychiatrist is called from home.

The disproportionate number of the personnel and persons with mental health problems in psychiatric institutions does not contribute to proper provision of their care, medical and psychological assistance.

Also, it is problematic that the units of Gyumri Mental Health Center have no positions of female hospital attendants and as a result, the duties of ensuring the cleanliness of the units are assigned to the male hospital attendants on duty. This is especially worrisome in the context that some patients are also involved in cleaning the units, including the sanitary units.

As for the professional training of the medical personnel, the medical staff members of not all the psychiatric organizations undergo regular training. Trainings on arrangement of professional activities must be regular and cover the issues related to proper provision of the medical care and services for the persons with mental health problems as well as the procedures established by law and the international standards. Trainings are also necessary to develop the medical personnel's skills

to contact and build effective communication with patients as well as to apply a person-centered (patient-centered) approach and to be aware of the modern principles of medical ethics (deontology) and the issues related to application thereof.

Therefore, to resolve the above-mentioned issues, it is necessary to:

- ✓ **Make a complete assessment of the needs of the medical personnel and technical service staff of psychiatric organizations;**
- ✓ **Define the optimal ratio of the number of patients and medical or service staff as well as specify the volume of work and functions of each of them;**
- ✓ **Develop flexible on-duty work mechanisms for the psychiatrists in regional (marz) psychiatric organizations;**
- ✓ **Fill the vacancies in psychiatric organizations and involve the necessary specialists and sufficient number of personnel in their activities;**
- ✓ **Review the respective training programs for the medical personnel, including the duration, frequency and content of such trainings.**

3.16 Non-medication-assisted treatment and psychological assistance

Competent and efficient arrangement and provision of psychological activities plays a special role in terms of rehabilitation and social integration of persons with mental health problems. Whereas, the current situation in Armenian psychiatric organizations serves as a basis for a well-grounded conclusion that the social and psychological support of persons with mental health problems is secondary and is not given due importance. This is confirmed by the observations below.

First of all, it is necessary to address the insufficient number of psychologists in psychiatric organizations, which has a direct negative impact on the quality and efficiency of the performed work.

Another issue of special attention is the strict adherence by the psychologists to the ethical principles and professional boundaries, as cases of violation by psychologists of ethical principles and professional boundaries have been identified in psychiatric organizations. For instance, at Dzorak Care Center, the psychologist assumed the role of a mediator in conflict situations between the staff and the patients, spoke with the patients in colloquial language and expressed a critical attitude to their behavioral manifestations in different situations, etc.

Another systemic issue of concern for the National Preventive Mechanism remains the lack of properly equipped rooms for individual and group psychological activities in psychiatric organizations, designed on the basis of the peculiarities and specifics of psychological work. This deserves special attention in terms of the activities with the persons with mental health problems. The lack of the rooms described above is a major limitation in terms of ensuring professional and consistent psychological activity. Among the psychiatric organizations monitored by the National Preventive Mechanism, only the children's unit in Avan Mental Health Center had a psychologist's office meeting the necessary standards for both individual and group psychological working activities.

The monitoring visits by the National Preventive Mechanism have identified systemic problems. Particularly, the lack of the prescribed procedures for organizing individual and group psychological activities raises concerns. The psychologist in the psychiatric organization has no specified list of duties or any norms regulating the volume of their work. There is no professional control over the activity of the psychologist, and it is not subject to any planning and clear accountability. A certain internal regulation was identified at Gyumri Mental Health Center; that is, the psychologist first meets the patient 3-5 days after the patient's admission to the Center but there were no regulations for any further activity.

Another issue is related to organizing group psychological working activities, including the psychologist's activities with the family members of the patients in psychiatric organizations. The

National Preventive Mechanism revealed that the above-mentioned works were formal/nominal in nature (the essential requirements and rules for conducting such activities were not observed). The group psychological activities carried out in the psychiatric organizations are mostly similar to entertainment by their nature, and such sessions are not therapeutic.

The monitoring visits by the National Preventive Mechanism have identified another matter of concern: all the psychiatric organizations had no records on the individual and group psychological activities, or the available records did not reflect such activities, their purpose, the further course of the planned activities, the outcomes, etc. As a result of the aforesaid, it is impossible to get a substantive picture of the activities: both completed and planned.

Also, the National Preventive Mechanism paid a special attention to provision of psychological support in case of application of restraints. The issue of psychological support provided within application of restraints in psychiatric institutions raises deep concerns. Here, again there are no uniform mechanisms for organizing the psychologist's activities in place. For instance, at Gyumri Mental Health Center, after application of restraints and in case a patient refuses food, the psychological activities are confined to psychologist's assessment of the action of the person with mental health problems as negative and disciplinary conversation. With this regard, it is noteworthy that unlike the cases of applying restraint to adult patients, when the presence of a psychologist is impermissible and may have a negative effect in the context of the further course in the psychologist-patient relationship, as it might cause with the patient a lack of trust, a sense of punishment, shame, etc. (an incident was recorded in Gyumri Mental Health Center), in case of a juvenile patient, the presence of a psychologist, and in some cases, even their intervention, may simply be a must. For instance, in the children's unit of Avan Mental Health Center, the psychologist did not take a professional approach to the application of a physical restraint and sedative to a juvenile due to his stubborn and disobedient behavior based on his unwillingness to stay in the psychiatric organization without his parent. In this case, a private interview by the psychologist with the juvenile and presentation of the situation, taking into account the needs, personal and age features of the person

in question as well as a private interview with his parent and reference to certain parenting skills might significantly remedy the situation even to the extent that there would be no need for any physical restraint and sedative.

The monitoring visits by the National Preventive Mechanism have identified that diagnostic package used by the psychologists in Gyumri Mental Health Center and Dzorak Care Center needs replenishment and more targeted application. In this respect, the diagnostic package used by the psychologists at Avan Mental Health Center is quite comprehensive, which provides the specialists with a wider choice of methods and therefore, makes the psycho-diagnostic process more effective by securing more reliable research data.

A matter of concern continues to be the lack of interdisciplinary substantive cooperation in psychiatric organizations and of uniform mechanisms for recording and monitoring such cooperation.

The comparison of the information obtained by the monitoring visits with the observations by the representatives of the National Preventive Mechanism has shown that another issue of concern at psychiatric institutions is the organization of alternative (non-medication-assisted) therapy. Particularly, the occupational therapy practiced in Dzorak Care Center is essentially an art therapy activity which mostly tends to ensure occupation of the patients. And the other psychiatric organizations do not practice any non-medication-assisted therapy methods, such as art therapy, occupational therapy, due to lack of necessary resources.

Taking into account the specifics of the mental and physical development of the persons in the Center, it may be especially expedient to apply ergo-therapy as an alternative (non-medication-assisted therapy) therapy by involving a relevant specialist.

Based on the foregoing, it is necessary to:

- ✓ *Review the number of the psychologists employed at the psychiatric organizations;*
- ✓ *Ensure communication by the psychologists with the visitors based on the principles of professional ethics and revise as necessary the purpose and scope of the psychologist's professional activity;*
- ✓ *Provide properly furnished rooms in the psychiatric organizations for psychological activities (including group sessions) and review the furniture, layout and interior design of the rooms currently used for such purpose;*
- ✓ *Establish clear procedures for organizing the psychologist's working activities and a certain frequency of sessions;*
- ✓ *Review the organization of group psychological work sessions and the work sessions with the patient's family members by ensuring the therapeutic nature of such sessions;*
- ✓ *Ensure proper and meaningful practices of filling out by the specialists of the current documents and performance of the psychological working activities with persons with mental health problems and observance of such procedure;*
- ✓ *Review the psychologist's professional activity in cases of application of restraints and food refusal and develop certain relevant procedures;*
- ✓ *Review and supplement the psychological diagnostic packages by ensuring the most targeted application of psycho-diagnostic methodologies;*
- ✓ *Develop the practice of psychiatrist-psychologist cooperation and cooperation among other narrow specialists in psychiatric organizations and map out a system of forms for such cooperation.*

3.17 Overcrowding

Problems related to overcrowding of wards were identified in Gyumri Mental Health Center and Dzorak Care Center. The wards do not have the minimum living space for each person with mental health problems as prescribed by the RA law and international standards. At the time of the visit,

the bed capacity in Dzorak Care Center was fully used, and there were many people on the waiting list.

The monitoring visit by the National Preventive Mechanism has identified that almost all the wards in Gyumri Mental Health Center and a room on the 1st floor of the 2nd unit in Dzorak Care Center did not provide a minimum living space for persons with mental health problems.

In Gyumri Mental Health Center, the monitoring visit also identified that the beds were placed too close to each other or quite densely. Some rooms in Dzorak Care Center housed up to 14 patients and in spite of complying with the legislative requirements for the minimum living areas, such rooms were still overcrowded and did not meet the legislative requirement of "*no more than 4 patients per room*". Hence, the recommendations below were presented:

- ✓ *Review the bed capacity in the psychiatric organizations and take steps to reduce the waiting lists of special care facilities;*
- ✓ *Reduce the occupancy rate in the rooms in the institutions by providing each person with mental health problems with a personal living space;*
- ✓ *Exclude position of beds placed too close to each other;*
- ✓ *Take steps to gradually transform large wards into smaller ones.*

3.18 Living conditions

The monitored psychiatric organizations and particularly, their staircases and sanitary units are not adapted to the needs of persons with mobility problems. For instance, in Gyumri Mental Care Center, the sanitary units were positioned one step above the door entrance.

And in Dzorak Care Center, due to the non-adapted staircase, persons with mobility problems were mostly kept on the 1st floor of the units.

In Dzorak Care Center and in Avan Mental Care Center, the floors in the wards were mostly worn-out either wooden, or carpeted or linoleum-covered. In some rooms, some parts of the linoleum floor or carpet were worn-out, torn and protruding here and there, which is problematic as most of the patients there had mobility problems and moved around with difficulty. This can be an obstacle when moving in a wheelchair and cause falls while walking.

Another issue is the availability of individual lockers for persons with mental health problems at the institutions. The monitoring visits identified cases when the number of the lockers installed in the wards did not match the number of available beds, and not all the persons were provided with the opportunity to store their personal belongings there. Such conditions are inadmissible and violate a person's rights to be treated with dignity and privacy.

In the monitored institutions, the switches for artificial lighting in the wards were installed in the corridors, and at night, the persons with mental health problems moved around in dark rooms. In Dzorak Care Center, some of the artificial lighting lamps in the unit wards were not functioning and were not connected to the power.

The sanitary units and bathrooms in the psychiatric organizations were renovated. In Dzorak Care Center, the sanitary units were furnished with toilet bowls, chamber pots and urinals. It is noteworthy that not all the toilet booths had doors, and some toilet bowls had no seats. In Avan Mental Health Center, the sanitary units were also furnished with toilet bowls. Unlike the above-mentioned institutions, the sanitary units for the patients at Gyumri Mental Health Center were Asian-style and the sanitary units for the staff were furnished with sanitary units.

In Dzorak Care Center, one of the sanitary units furnished with toilet bowls and chamber pots had a large transparent glass window without any curtain, which made the sanitary unit visible from the

outside. Despite the fact that the patients kept at the institution had different levels of consciousness, such conditions violate their privacy and dignity.

In most of the monitored psychiatric organizations, there was no soap at the sinks in the sanitary units.

In the monitored psychiatric organizations, the recreation rooms for the persons with mental health problems were mostly equipped with a TV-set. It is noteworthy that in Dzorak Care Center, some of the TV-sets installed in the recreation rooms were out of order, and one of such rooms had no TV-set at all.

Taking into account the above-mentioned issues, it is necessary to:

- ✓ Ensure adaptation of the physical environment to the needs of persons with mobility problems;
- ✓ Provide all the persons with mental health problems at the institution with a lockable personal space where they can store their personal belongings;
- ✓ Create decent conditions for persons with mental health problems in the psychiatric organizations by ensuring their right to privacy.

3.19 Ensuring sanitary and hygienic conditions, washing and bathing

In Gyumri Mental Health Center, the washing was done in the laundry room which needed cosmetic repair. In the laundry room, there was a washing machine with a washing capacity of 12 kg which was functional but quite old. The staff of the psychiatric organization voiced the need for another washing machine by noting that it would make their work easier.

In Dzorak Care Center, the washing was also done in the laundry room of the Center, and at Avan Mental Health Center, the washing was done on a contractual basis.

Also, the monitoring visits identified in the psychiatric organizations issues related to bathing. In Gyumri Mental Health Center, the bathing of the persons with mental health problems is done in the bathrooms of the units, with a frequency of once in 7-10 days, when the institution's boiler house is operated. Whereas, according to Clause 9 of the Decree No 01-N of the RA Minister of Health on Establishing the Necessary Living Conditions for Persons with Mental Health Problems in Psychiatric Organizations dated 4 January 2022, *the psychiatric organizations must provide the persons with mental health problems with a possibility to have a bath at least twice a week (more often, if necessary)*. Hence, Gyumri Mental Health Center does not properly ensure compliance with the legislative requirement for providing the patients with bathing, which is worrisome. In private interviews, the female patients of Gyumri Mental Health Center expressed their discontent with availability of hot water in the unit only on certain days, due to which they had to wipe their bodies with a wet napkin or a wet towel. It is noteworthy that some of the women used the electric kettle available at the personnel's unit to heat water. In some cases, this can be perceived as a differentiated approach.

Reportedly, in Avan Mental Health Center, the patients can take a bath at their discretion every day. In Dzorak Care Center, the patients in the 1st unit take a bath 2 or 3 times a day with the assistance of the Center's staff, and the patients in the 2nd unit take a bath twice a week. In Dzorak Care Center, the patients suffering bedwetting also take a bath every day.

In Gyumri Mental Health Center, the bathrooms of both male and female wards had a separate anteroom and 3 bath cabins, but at the time of the visit, in the bathrooms of both the female wards and the male wards, one of the bath cabins was not in use. In one case, a water tap and a shower head were dismantled, and in another case, household items were kept in the bath cabin. In Gyumri Mental Health Center, the male patients from the narcology unit next to the female ward also used the female bathroom on bathing days, which is problematic.

In Dzorak Care Center, pieces of soap were stored in separate containers in the bathrooms, some of which had the names of the patients written on them. It was identified that the bath sponges were generally not individualized and were stored one on the other on the stand next to the bath cabin. Also, the visit identified that the underwear of the patients were worn out. Therefore, it is recommended to:

- ✓ *Equip the laundry room of Gyumri Mental Health Center with a new washing machine;*
- ✓ *Ensure bathing of the persons with mental health problems in accordance with the legislative requirements;*
- ✓ *Equip the bath cabins in the institution bathrooms with showers and other necessary accessories;*
- ✓ *Ensure individualization and proper disinfection of the hygiene items of the persons in the psychiatric organizations and sanitary and hygienic storage conditions thereof;*
- ✓ *Provide the persons with mental health problems with proper clothes.*

3.20 Kitchen and provision of food

In Gyumri Mental Health Center and Dzorak Care Center, the food provided to the persons with mental health problems is prepared on site, while in Avan Mental Health Center, it is supplied by a private company.

The visits have identified that the food products served in the psychiatric organizations on the previous day were sampled and stored in refrigerators.

In Gyumri Mental Health Center, the kitchen was renovated, clean, properly furnished and had round-the-clock water supply and hot water. In Dzorak Care Center, the kitchen was clean and renovated too, but the ventilation system in the kitchen was faulty and the equipment was old. In the kitchen as well as in adjacent rooms and in some parts of the dining room, the plaster on the

walls and ceiling had fallen off, the tiles and the floor were worn-out, and the kitchen was in need of repair.

In Gyumri Mental Health Center, the dining halls in the units were renovated and clean as well. In Dzorak Care Center, the dining room adjacent to the kitchen was furnished with both new and old furniture: tables and chairs. Reportedly, the new furniture was transferred to the institution from Vanadzor Children's Home SNCO which terminated its activity. It is noteworthy that the dining room is located on the 2nd floor of the premises which can be accessed only by stairs and the staircase is not adapted to the needs of the persons with mobility problems.

In the monitored psychiatric organizations, meals are provided three times a day: 9-10 am, 1-2 pm and 6-7 pm.

It is noteworthy that not all units in the psychiatric organizations had menus posted on their walls, and the persons with mental health problems had no information about their daily menu.

Another issue identified during the monitoring visits is access of the persons with mental health problems to food with sufficient calories and necessary rations and variety of food.

The examination of the menus available at the institutions showed that they did not comply with the minimum daily food rations as prescribed by the RA Government Decree No 1724-N dated 21 October 2021 on Setting the Average Daily Food Rations, Rationing of Clothes and their Term of Use, Rationing of Bedding and Hygiene Items and their Term of Use for the Persons in Psychiatric Organizations and on Annuling the Decree No 711-N of the Government of the Republic of Armenia dated 26 May 2011, and with the minimum standards of food portions and energetic value of the food products provided to the persons under care of the special type (specialized) care facilities for the elderly and persons with disabilities as provided in the Annex No 3 to the RA Government Decree No 730-N dated 31 May 2007 on Approving the Minimum Standards of Care and Social

Services for the Elderly and Persons with Disabilities. The monitoring has shown that the institutions did not serve certain food products at all and certain food products to be served every day were not served every day or were served in portions less than prescribed by the minimum daily ration. Also, some cases were identified when some dishes served at the institutions were regularly repeated. For instance, in Dzorak Care Center, buckwheat pilaf was served to the patients for 5 days a week.

Non-observance of the minimum standards of the rations and energetic value of the food served to persons with mental health problems does not contribute to ensuring their health.

During the visit, the persons with mental health problems in Avan Mental Health Center expressed their discontent with under-salted food.

The lack of the possibility to prescribe and serve dietary food for persons with special dietary needs in the psychiatric organizations is problematic as well. At the time of the monitoring visits, persons suffering from diabetes, Hepatitis C and other chronic diseases were found at the institutions, and no special menu was available for them and they took the generally served food. With this regard, there are no respective legal regulations in place, either.

It is noteworthy that the RA Government Decree No 1724-N of 21 October 2021 reduced the average daily rations of certain food products without proper reasoning. The weight of the served bread, meat, eggs, butter, vegetable oil, vegetables and potatoes was decreased significantly. Both the persons with mental health problems and the staff expressed their discontent with this regard. The staff members mentioned that the reduced food rations are not sufficient for the patients, and most problematic is the reduction in the portions of sugar, sweets and salt. According to the staff, the 10 grams of sugar or the 5 grams of salt available per patient are used in the dishes and as a result, the Center has to serve tea without sugar and eggs without salt. The staff also added that the reduction

of the daily portions of honey, jam and sweets has also caused great discontent among the persons with mental health problems.

At the monitored institutions, the food and commodity storage conditions and sanitary and hygiene conditions were generally satisfactory, and no serious problems were identified. Taking into account the foregoing, it is necessary to:

- ✓ *Carry out repair works in the kitchen and dining room at Dzorak Care Center and equip the kitchen with new kitchen appliances;*
- ✓ *Serve the person in the psychiatric institutions with the food products and the minimum daily rations as defined by the respective RA Government Decrees;*
- ✓ *Ensure the variety of the food served to the persons with mental health problems by excluding the frequent provision of the same dishes;*
- ✓ *Review the minimum daily food rations served to the persons with mental health problems as defined by the RA Government Decree No 1724-N of 21 October 2021;*
- ✓ *Initiate legislative amendments, provide a separate menu for the patients with chronic diseases and in need of dietary food in the psychiatric organizations and serve to them respective food.*

3.21 Communication with the outside world

Next to the entrances to the units in Gyumri Mental Health Center and Avan Mental Health Center, payphones were installed, but they had no notes with the Human Rights Defender's hotline number and guideline for calling. At Gyumri Mental Health Center, the staff said that the patients generally did not use payphone cards as they could not pay for them. According to the information provided by the administration, to provide free phone communications for the persons with mental health problems with their families, the institution acquired 2 mobile phones with SIM cards of different mobile operators, which is welcome.

At Dzorak Care Center and in the female ward of Avan Mental Health Center, there were no payphones. Apart from that, very few of the patients at Dzorak Care Center had mobile phones and in some cases, the staff gave to the patients their own personal mobile phones to make calls. Most of the persons with mental health problems in the female ward of Gyumri Mental Health Center did not have personal mobile phones either; some of them used the mobile phones of other patients.

It is noteworthy that in Gyumri Mental Health Center, the patients were not allowed to keep mobile phones upon them; their mobile phones were mostly kept by the medical personnel in the nurse room and were provided to them only on the doctor's instruction. With this regard, it should be noted that any restrictions on the right to use phone communication should be imposed on patients by a well-reasoned decision of the examining or attending psychiatrist, if the exercise of such right may pose a real danger to the person with mental health problems or the people around them.

Hence, the right of the persons with mental health problems to use phone communication is restricted by a general principle, without any respective medical prescription, which is inadmissible and does not contribute to the maintenance of social ties. In fact, the persons with mental health problems are deprived of the possibility to have a mobile phone upon them, have no possibility to use the payphones available in the units and are immediately dependent on the medical personnel.

The ban on the mobile phones is extremely problematic; without any legal basis, it restricts the rights of the patients and is therefore subject to immediate exclusion.

At Avan Mental Health Center, no problems with personal mobile phones were identified; most of the patients had personal mobile phones which were always upon them.

Also, the monitoring visits identified issues related to holding visits for the persons with mental health problems with their families. Hence, at Gyumri Mental Health Center, such visits are held in the “recreation rooms” in the male ward, which also serves as a smoking room, and for female

patients – at the entrance of the female ward, just on site. It is problematic that due to the physical conditions of the premises in the units, there is no special room for visits, in consequence whereof the patients have no possibility to have private talks with their families during such visits.

At Dzorak Care Center, the visits to the patients are held in the pavilions located in the yard and in the premises designed for such purpose. In their interviews to the Defender's representatives, the Center staff members said that only a few of the patients were visited by their families and such visits were mostly not regular. At Avan Mental Health Center, visits are held outside the units, in a separated area designated for such purpose.

It is also noteworthy that given the regular and potential restrictions on visits due to COVID-19, Gyumri Mental Health Center and Dzorak Care Center had no access to video calls. In Dzorak Care Center, the Box for Complaints and Offers was placed outside of the units, in the administrative section of the institution and was mostly inaccessible to the patients. Hence, it is recommended to:

- ✓ *Ensure the full exercise of the right of persons with mental health problems to use phone communication, in compliance with the procedure established by law;*
- ✓ *Provide the persons in the psychiatric organizations with access to independent phone communication;*
- ✓ *Ensure the availability of respective guidelines for calling 116 hotline number of the Human Rights Defender's Office;*
- ✓ *Exclude the ban on mobile phones among the persons with mental health problems, by limiting the right to use phone communication only as and when prescribed by law;*
- ✓ *Provide a separate and properly furnished room for family visits at Gyumri Mental Health Center;*
- ✓ *Consider the issue of providing a video call option for the persons with mental health problems in psychiatric organizations;*
- ✓ *Provide the persons with mental health problems with a possibility to file applications and complaints in a confidential manner.*

3.22 Outdoor walks

The monitoring visits identified issues related to arranging walks for the persons with mental health problems.

Hence, at Gyumri Mental Health Center, there was no special walking area. The patients walked in the yard where there were benches but there were no shelters for bad weather conditions. At the time of the visit, the grass in the yard area was not mowed and trimmed, which is a matter of concern, especially considering the fact that a tick bit 2 laundry workers while they were hanging the washing in the yard. Also, stray dogs were noticed in the yard area.

At Avan Mental Health Center, walks were also arranged in the yard of the institution and lasted from 20 minutes to an hour, depending on weather conditions and workload of the medical personnel. In their private interviews to the Defender's representatives, the persons with mental health problems stated that they often refused to go out for walks in rainy weather as there were no shelters or pavilions for bad weather in the yard of the institution.

At Dzorak Care Center, outdoor walks were arranged in the spacious yard of the Center, which had pavilions. The yard and area of the Center were clean and well-maintained. Some of the patients mentioned that they took part in cleaning and improving of the yard. The visit revealed that the patients in the 2nd unit of the Center might freely enjoy the right to outdoor walks which were arranged for them every day. Meanwhile, the patients in the 1st unit of Dzorak Care Center were only taken out to the yard on their way to the dining-room or in order to take part in other activities. They spent most of the day in the recreation rooms of the unit.

In the course the monitoring visits, the records kept by the psychiatric organizations and the medical documents of the persons with mental health problems were also examined, and the findings showed

that in Gyumri Mental Health Center, no entries on the restrictions of the patients' right to walks were made in their medical documents. Moreover, the monitoring identified problematic practices in keeping record of the walks. Hence, the units of Gyumri Mental Health Center kept a register entitled Outdoor Walks; the entries available there were mostly formal/nominal in nature and did not reflect the real picture of arranging walks. Particularly, according to the medical personnel, the right to walk of some of the patients admitted to the women's ward a few days before was restricted due to their acute psychopathological condition; this was also confirmed by the patients, but the respective register had entries confirmed by the patients' signatures that they went out for a walk. The examination of the register has also revealed that the patients were not taken out for walks due to bad weather, or in some cases the whole unit refused to go for an outdoor walk without any reason.

Improper arrangement of outdoor walks does not comply with the legislative requirements and gives rise to concerns. Taking into account the foregoing, it is necessary to:

- ✓ *Properly organize the exercise of the patients' right to walk;*
- ✓ *Equip the yards of psychiatric organizations with shelters and pavilions for bad weather;*
- ✓ *Keep the walk register in compliance with the procedure established by law.*

3.23 Occupation

The monitoring visits also identified issues related to ensuring occupation of the persons with mental health problems.

Hence, in Gyumri Mental Health Center, there was a recreation room for the patients in the male ward, with a TV-set and board games (chess, checkers). The recreation room also served as a smoking room, which is problematic. Due to overcrowding in the female ward, the recreation room was used as a ward, and its furniture was placed in the corridor. There was a TV-set and a sofa in that room and there were no other occupations in the unit.

At Avan Mental Health Center, there were no other occupations apart from a TV-set and board games, either. There, the corridor of the unit and the dining hall were used as recreation rooms for the patients where they watched TV or played board games.

At Dzorak Care Center, the units had separate recreation rooms (rooms for rest) but some of them were combined with a bedroom, which is problematic as such. The recreation rooms were equipped with a TV-set, a sofa and armchairs. The 2nd unit of the Care Center was also equipped with a table tennis, and during the visit, some of the patients were playing tennis under the surveillance of the physical training instructor. In the recreation rooms in the 1st unit of the Center, 2 of the TV-sets were out of order, and there was no TV-set at all in one of the rooms. Hence, the recreation rooms in the unit were not properly and fully furnished and did not comply with the legislative requirements. The issue of providing occupation for the patients became more prominent during the monitoring visits to the 1st unit of Dzorak Care Center where throughout the visit, most of the patients were sitting on the floor or on the chairs in the recreation rooms, doing nothing.

Dzorak Care Center has a library but according to the information provided by the staff, most of the patients are illiterate and cannot use the library. Also, there is a gym in the premises of the Center which needs repair. Particularly, the plaster on the ceiling of the gym had fallen off here and there, and the parquet was destroyed in some parts. The patients mostly use the gym in the morning; they are brought to the gym in groups, do exercises and play games there under the surveillance of the instructor.

In the course of the monitoring at Dzorak Care Center, some information was received to the effect that with the support of the Society for Orphaned Armenian Relief –Armenia, the Center held regular sporting events (rowing competitions, ‘Sportlandia’, etc.) and involved the patients in such events. In their private interviews to the Defender’s representatives, the patients also expressed their content with the sporting events and mentioned that they would like such events to be held more

often. Such events are welcome as they are extremely important in terms of providing occupation for the patients.

To promote the healthy lifestyle and health care of the patients, it will be also essential to staff the institution with therapeutic physical training specialists and to hold therapeutic activities to meet the needs of the patients.

On the premises of Dzorak Care Center, there is a celebration hall where, according to the staff, various events are held from time to time. The state of the celebration hall made it obvious that it had not been used for a long time and particularly, its stage and the pianos located there were completely covered in dust.

On the premises of the Care Center, there is also a greenhouse where bean, tomato and pepper were grown. Reportedly, a staff member is engaged with the work in the greenhouse, and the patients take part in such work at their own will. In the greenhouse, the patients are mostly involved in watering the crops.

During the monitoring visits, the persons with mental health problems told the Defender's representatives that their main occupation was watching TV and playing board games. They also said that they spent most of the day in their wards talking to each other. At Gyumri Mental Health Center, in their interviews the patients expressed their wish to have an opportunity to do exercises/workout, which they did not have in the psychiatric organization.

It should be highlighted that the availability of a TV-set and board games does not resolve the issue of providing the persons with mental health problems with occupation. It is necessary to take meaningful steps to organize the daily life of the patients, taking into account their preferences and capacities. It is extremely important to implement educational programs through game methods and

to hold workout trainings that meet the minimum requirements of physical training and safety rules for psychiatric institutions. Hence, it is necessary to:

- ✓ *Equip the recreation rooms (rooms for rest) in psychiatric organizations with adequate furniture, functional TV-sets and board games;*
- ✓ *Add more types of targeted occupations for persons with mental health problems and create additional opportunities, taking into account the specifics of their mental and physical development;*
- ✓ *Carry out repair work in the gym in Dzorak Care Center;*
- ✓ *Take steps to create an opportunity for the patients in Gyumri Mental Health Center to do exercises/workout.*

3.24 Issues related to independent possession and management of pensions (benefits) in psychiatric organizations

The psychiatric organizations should prioritize ensuring the rights of the persons with mental health problems to social security and support, taking account of the fact that persons with mental health problems are most vulnerable in terms of protection of their financial interests. In this regard, the issues below deserve a special attention: receipt, independent possession and management by the persons with mental health problems of their pensions (benefits) and applying to competent authorities to exercise their right and ensure continued payment of their pensions. Generally, persons with mental health problems receive pensions and benefits non-cash. In this regard, it is problematic that not all patients can keep upon them their pension bank cards and pensions received in cash, and such cards and cash are mostly deposited with the nurses of the units. In one of the psychiatric institutions, some cases were identified when patients' pensions were received non-cash and managed by their family members not in their favor. During a monitoring visit, such a specific case was identified. In particular, it was revealed that the relatives of a patient took their pension

bank card and refused to return it despite the efforts made by the medical personnel of the institution.

Specific and effective mechanisms should be applied to ensure that the persons with mental health problems in psychiatric institutions independently manage their assets and income or that such assets and income are used in their favor.

In another case identified during the monitoring visit, a patient receiving compulsory treatment did not actually receive their social benefit. After the visit, the representative of the Human Rights Defender discussed the raised issue with the officer of the Territorial Division of the Unified Social Services, who stated that the person's right to social benefits was terminated on the basis of not receiving the social benefits for 3 consecutive months without any reasonable excuse. It is problematic that the person's stay at a psychiatric institution can be considered as an unreasonable excuse for terminating their right to receive social benefits on the basis of not receiving the benefit for 3 consecutive months. In this regard, it is noteworthy that the RA Law on State Benefits does not provide for any regulation on not paying social benefits to a person in case of their stay at a psychiatric institution. Moreover, Clause 20 of Annex 8 approved by the RA Government Decree No 145-N dated 30 January 2014 on Ensuring the Enforcement of the Law of the Republic of Armenia on State Benefits stipulates that *the benefit or emergency assistance may be also paid under the procedure established by the law of the Republic of Armenia to the person's legal representative (guardian, caregiver)*. It follows that if a person has been declared by a court of law as legally incapable or with limited legal capacity and stays at a psychiatric institution, their guardian or caregiver might receive their benefits or emergency assistance on their behalf. This leads to a differentiated approach between the persons staying and treated in a psychiatric organization and those treated there but having a guardian.

Therefore, measures should be taken to resolve the above-mentioned issue causing issues at the legal level.

Taking into account the foregoing, it is necessary to:

- ✓ *Develop effective mechanisms to ensure that the patients keep upon them and independently manage their money and bank cards;*
- ✓ *Conduct targeted trainings for the personnel to ensure through a penal law remedy that the persons with mental health problems manage independently their assets and income or that such assets and income are used in their favor;*
- ✓ *Be consistent in properly securing the right to social security of the persons at psychiatric institutions;*
- ✓ *Introduce clear legislative mechanisms to ensure free exercise of the right of the persons at psychiatric institutions to social security (benefit, pension).*

CHAPTER 4. PENITENTIARY INSTITUTIONS OF THE RA MINISTRY OF JUSTICE

The protection of the rights of the persons deprived of liberty at the penitentiary institutions of the RA Ministry of Justice /hereinafter referred to as the “Penitentiary Institutions”/ ranges among the basic directions of the activity of the Human Rights Defender’s institute and, above all, of the National Preventive Mechanism.

In 2022, monitoring visits were made to "Abovyan", "Armavir" and "Goris" penitentiary institutions. The monitoring visits by the National Preventive Mechanism to the Penitentiary Institutions and the findings of the examinations of the individual complaints submitted to the Human Rights Defender identified issues related to securing the rights of the persons deprived of liberty to health care as well as issues with their food, sanitary and hygienic conditions, communication with the outside world and re-socialization as well as issues related to the working conditions of the medical service staff and penitentiary officers, which make the continuous reforms in the sector quite actual.

This Chapter of the Report includes references reflecting the issues identified in the course of the monitoring visits to the above-mentioned penitentiary institutions.

4.1. "Abovyan" Penitentiary Institution

It is noteworthy that on 14 November 2022, the Human Rights Defender, as a National Preventive Mechanism, published an Ad-hoc Public Report on Ensuring the Rights of the Women, Juveniles and Foreigners Deprived of Liberty in the Penitentiary System.¹² The ad-hoc Report addresses the access for deprived women, juveniles and foreigners to necessary medical services, psychological support, conditions of detention, education and occupation, language barriers during communication and other issues.

¹² See: <https://www.ombuds.am/images/files/99ffb65a452069620139868b8b271407.pdf>

1. Conditions of detention

At the time of the visit, 66 persons deprived of liberty (40 detainees and 26 convicts) were detained at "Abovyan" penitentiary institution. Of the 66 persons deprived of liberty, 4 were male juvenile detainees, and one was an adult. He turned 18 during his detention at the penitentiary institution. It should be emphasized that the conditions of detention of the juveniles deprived of liberty did not differ in any way from those of the adults.

It is noteworthy that according to the CPT, all juveniles deprived of their liberty ought to be held in detention centers specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with the young. Moreover, the care of juveniles in custody requires special efforts to reduce the risks of long-term social maladjustment. This calls for a multidisciplinary approach, drawing upon the skills of a range of professionals (including teachers, trainers and psychologists), in order to respond to the individual needs of juveniles within a secure educative and socio-therapeutic environment.¹³

1.1 Isolation facilities

Arrested women, women sentenced to imprisonment and placed in closed and semi-closed correctional institutions as well as juvenile detainees were held in the isolation facilities of the penitentiary institution.

The monitoring has identified that the physical conditions in the isolation facilities of the penitentiary institution are in a poor condition and an inadmissible sanitary state. The level of humidity in the corridors, cells and offices in the isolation facilities was high, the plaster on the walls

¹³ See: 9th General Report on the CPT's activities: <https://rm.coe.int/1680696a73> , Para. 28.

and ceiling had fallen off, and they were destroyed and moldy here and there. Similar conditions were also found in the gym, laundry room and storage room in the isolation facilities. In their private interviews to the Defender's representatives, the persons deprived of liberty reported that rats and cockroaches were quite common in the cells on the 1st floor of the isolation facilities.

The quarantine cell and the penal cell on the 1st floor of the isolation facilities were also in a poor condition. Due to the high level of humidity in the said cells, including in their sanitary units, the plaster on the walls and ceiling had fallen off.

The area of the monitored cells mostly ranged between 13 and 15 square meters, and the cells were equipped with furniture intended for 4 persons deprived of liberty. At the time of monitoring, a maximum of 3 persons deprived of liberty were placed in the cells.

During their private interviews, the persons deprived of liberty stated that the bedding provided to them was of poor quality and torn and also, that the mattresses were too thin and they often had to use several mattresses.

It is noteworthy that during the visit, renovation works had already started on the 1st floor of the isolation facilities, which is welcome. However, at the time of the monitoring visit, pits were dug in front of the cells along the entire corridor as part of the renovation works, which made it difficult to access the cells.

Taking into account the foregoing, it is necessary to:

- ✓ *Provide the persons deprived of liberty with bedding of proper quality;*
- ✓ *Carry out repair works of penal cells in the isolation facilities;*
- ✓ *Arrange the repair works in such a way that they do not hinder the free access to the cells.*

1.2 Women's section

Separate 2-storey premises (women's section) are intended in "Abovyan" Penitentiary Institution for women serving their sentence at semi-open facilities. It is of a residential type, with a bathroom, a laundry room, a medical unit, a hall, a computer room and a refrigerator room located on its 1st floor. There is a separate kitchen area in the facilities for reheating the food delivered in parcels by the relatives of the persons deprived of liberty.

The 2nd floor of the said premises comprises 1 large accommodation room, 1 double room as well as a hairdressing room and a library. One of the rooms on the said floor stores accessories for carpet weaving which were, reportedly, not used.

At the time of the visit, 15 female convicts were detained in the common accommodation area of the women's section. 2 of the convicted women shared a double room, and 1 of them shared a room with her child under 3 years old. 13 of them shared common accommodation.

It is noteworthy that Article 104(1) of the Penitentiary Code effective at the time of the monitoring visit stipulates that *at half-open correctional institutions, convicts shall be detained in residential accommodation intended for up to six persons*; at the time of the visit, this requirements was not actually fulfilled. Moreover, according to Article 98(1) of the updated Penitentiary Code effective since 1 July 2022, in the mild conditions in the medium-security area (according to the transitional provisions defined in Article 170(3)(2) of the Penitentiary Code, the conditions for serving by the convicts of their sentence at semi-open correctional institutions are adjusted to the conditions provided for the mild conditions in the medium-security area), *convicts are kept in a residential accommodation for up to eight convicts*.

Hence, the regulations prescribed by law were not observed in the women's section, and twice as many people deprived of liberty were held all together in the accommodation.

It is problematic that the general accommodation of the women's section continued to be separated from the control point of the officers on duty by a glass partition, which was recorded even during the previous monitoring visits.¹⁴ It is noteworthy that after the Human Rights Defender raised the above-mentioned issue, it was resolved and particularly, the glass partition was painted, which excluded the possibility of direct and permanent observation of the accommodation by the administration of the penitentiary institution.

The sanitary units in the women's section are located on the 2nd floor of the premises and equipped with 4 separated Asian-style sanitary units. They were in a good condition.

Taking into account the foregoing, it is necessary to make modification works in the accommodation of the women's section which will ensure the possibility that the number of the persons deprived of liberty held in detention does not exceed the number defined by law.

2. Lack of cells or accommodation for pregnant detainees and convicts or detainees and convicts with a child under 3 years of age

The monitoring visit identified that 3 women, each with a child under 3, were held in the penitentiary institution; 2 of them were held in the isolation facilities, and 1 – in the women's section. The conditions of detention of the said women held in the isolation facilities were not particularly different from those of the other persons deprived of liberty. Their cells were not equipped in consideration of the special requirements for child care; for instance, the cells lacked a baby crib or a baby bed, hot water, a bathroom and sanitary unit equipped for child care. Also, there was no separate park with a playground and no environment contributing to the children's healthy physical and mental development. The children's parents also expressed their discontent with the above noting that due to the lack of appropriate conditions, they faced numerous difficulties almost

¹⁴ See <https://www.ombuds.am/images/files/a18fe372eb128c32e7b10c30c44030d6.pdf> , pages 30-31.

every day. It is noteworthy that one of the women with a child under 3 stated that she had not taken out the child for walks for a long time as she did not wish to walk with the child in the park before the eyes of the other women or to communicate with them or answer their questions.

Another issue is arranging bathing for the children in a common bathroom once a week as there are no adequate conditions in the cell. Moreover, in one of the bathrooms in the isolation facilities where the children were bathed, there was a bath tub with broken edges, which might be dangerous for the children.

It is noteworthy that Clause 79 of the Annex to the RA Government Decree No 1543-N of 3 August 2006¹⁵ provides that *the pregnant detainees or convicts or the detainees or convicts with a child under 3 shall be placed in the detention facilities or correctional institutions in a way that would minimize to the extent possible their contacts with the other detainees or convicts.*

Hence, at "Abovyan" Penitentiary Institution, there are no special cells or accommodations for pregnant detainees and convicts or for detainees and convicts with a child under 3, and the conditions appropriate to the specifics of their situation are not provided.

While Clauses 79-87 of the Annex to the RA Government Decree No 1543-N of 3 August 2006 prescribe some specifics of the living conditions for the pregnant detainees and convicts or women with children under 3 years of age in detention facilities and in correctional institutions, such specifics still do not sufficiently reflect the possibility to have an environment meeting the needs of the persons in the above-mentioned group.

Moreover, even the minimum conditions stipulated by the said regulations are not provided in "Abovyan" Penitentiary Institution (e.g. availability of hot water in the cell, baby bed, a park with

¹⁵ RA Government Decree No 1543-N on Approval of the Internal Regulations of Detention Facilities and Correctional Institutions of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia dated 3 August 2006.

greenery or playground, etc.). In the said cells, it is possible to have hot water by boiling water with an electric kettle.

Therefore, it is necessary to:

- ✓ *Provide the pregnant detainees and convicts or women with children under 3 in "Abovyan" Penitentiary Institution with an adequate environment for their needs and special conditions of detention;*
- ✓ *Plan and equip a separate playground and a green park for children under 3;*
- ✓ *Properly furnish a separate cell (accommodation) for pregnant women deprived of liberty and for women with a child under 3;*
- ✓ *Adapt the sanitary units and bathrooms of such cells and accommodation to the special needs of pregnant women and children under 3; that is, provide them with hot water, a sanitary unit equipped with a toilet bowl, a bathroom and other basic necessities;*
- ✓ *Provide games as well as accessories and programs for children's development.*

3. Medical Care and Services

The monitoring visit identified that the positions in "Abovyan" unit of Penitentiary Medical Center SNCO were filled. The personnel include doctors: a narcologist, gynecologist, psychiatrist and dentist. The secondary medical personnel include 4 shift nurses and 1 daytime nurse. The average medical staff works in shifts every 4 days. 1 nurse serves two sections (isolation facilities and the women's section).

The medical service unit of the penitentiary institution has a busy workload. At night and in the evening, medical services are difficult to access, as 1 nurse on duty serves two sections and also performs disinfection of the dental instruments.

The medical personnel still lacks a general practitioner - a therapist or a family doctor, and therefore, therapeutic medical care is provided by the Unit doctors with other specializations. Moreover, sometimes such care is provided by the nurse, without the respective doctor's prescription. For instance, according to the Medicine Provision and Administration register, from June 6 to June 12, inclusive, 2022, detainee G.A. received daily injections of 2 ml of Khondre-Ject but there was no such doctor's prescription in her medical card and also, there was no entry on the patient's complaints as well as findings of an objective examination and rationale for medication therapy.

The comparison of the medicines provided to the persons deprived of liberty as identified by the examination of the Medicine Provision and Administration register with the rationale for administering such medication available in their medical cards showed that in many cases the medicines were administered to the persons deprived of liberty without any doctor's prescription or an examination by a doctor. **Such practices are very worrisome and should be stopped.**

Actually, the issue of provision of therapeutic services in penitentiary institutions by a person with respective specialization is of primary importance.

Given this, it would be more acceptable to involve a family doctor in the working activities of the Unit, who would be competent also to serve persons under 18, considering that "Abovyan" Penitentiary Institution is intended both for women and for juveniles. Moreover, women deprived of liberty may also live with their children under 3.

The requirement for involving a qualified general medical practitioner in the medical service unit is set forth in the European Prison Rules adopted on the Recommendation Rec(2006)2 of the Committee of Ministers /hereinafter referred to as the "European Prison Rules"/. According to the

above-mentioned rules, *every prison shall have the services of at least one qualified general medical practitioner.*¹⁶

The examination has shown that the persons deprived of liberty are registered with Abovyan Medical Center for out-patient medical care and services. The children under 3 living with their parents in "Abovyan" Penitentiary Institution are registered with "Mayakovsky Primary Health Care Center SNCO and mostly receive out-patient services at that Medical Center.

The necessary narrow-specialization consultations are held in "Abovyan" Medical Center within out-patient medical care and services or in the medical institutions under the health authorities with an appropriate referral.

All the 3 premises of the penitentiary institution (isolation facilities, juvenile and women's section) have separated units for provision of medical care.

The isolation facility has 1 furnished medical room to provide medical care to the women and juveniles held there. The said room, including the sanitary unit, is in an unacceptable and poor condition and needs major repairs.

On the 1st floor of the women's section, there are 3 separated medical service offices: a doctor's reception, a treatment room and a recreation room for medical personnel. It is noteworthy that the medical service section is not provided with running water and sanitary units yet.

¹⁶ See [https://pjp-eu.coe.int/documents/3983922/6970334/CMRec+\(2006\)+2+on+the+European+Prison+Rules.pdf/e0c900b9-92cd-4dbc-b23e-d662a94f3a96](https://pjp-eu.coe.int/documents/3983922/6970334/CMRec+(2006)+2+on+the+European+Prison+Rules.pdf/e0c900b9-92cd-4dbc-b23e-d662a94f3a96) , Para. 41.1.

During the monitoring visit, on a medical tray on the desk in the room intended for medical care and services in the women's section, there was Aritmil medicine unfit for use, with damaged foil cover and with its pill open. **Storing medicine subject to destruction is inadmissible.**

Sharp-edged medical waste at the penitentiary institutions is collected in a plastic container, and the medical personnel are not informed how it will be disposed of later. It is noteworthy that the plastic container full of sharp-edged waste was open at the time of the visit.

The medicines subject to destruction and the expired medicines recorded during the previous visit (on 16 March 2022) were already separated, recorded in a protocol and stored in a room intended for the Unit of the administrative premises in the penitentiary institution but 3 months after the recording, had not been discarded yet.

According to Clause 21 of the Annex 1 /hereinafter referred to as the "Annex"/ approved by the Decree No 03-N of the RA Minister of Health dated 4 March 2009 on Approving the Sanitary Rules and Norms No 2.1.3-3 "Hygienic and Anti-Epidemic Requirements for the Use of Medical Waste", *sharp-edged medical waste shall immediately after use be placed at the point of their generation in a disposable hard containers (e.g. in plastic bottles, metal or hard plastic containers) bearing the biohazard symbol and the marking: "CAUTION: sharps". Double capping and/or disinfection of syringe needles before placement shall be prohibited.*

According to Clause 25 of the Annex, *after placed in the containers, all types of medical waste shall be closed hermetically, and the pathological and anatomical, microbiological, sharp-edge and chemical wastes shall be also sealed, after which the staff member responsible for collection, placement, closing and transporting of the medical waste shall fill out a label by specifying thereon the type of the medical waste placed therein, the specific time, day, month and year /date/ of its placement in the container as well as his/her name and surname and the name of the organization. The completed label shall be attached to the container, which is immediately transported to a special*

area for temporary storage of medical wastes. Any possibility of separating the filled-out label from the container shall be excluded.

According to the medical personnel, a round is carried out twice a day: the nurse visits all the cells in the isolation facilities and provides the necessary medical care or the prescribed medicines.

During the visit, the nurse on duty was carrying out her next-in-turn round by providing the women deprived of liberty with the medicines prescribed to them.

During the round, the nurse's activities, including taking of the medicines by the persons deprived of liberty, were carried out within the sight and hearing of the officer on duty. Such violations of medical confidentiality still raise concerns.

The nurse on duty provides some medicines to the persons deprived of liberty to keep upon them and take after meals or at prescribed time. However, according to the persons deprived of liberty, in some cases the security officers forbid them to have any medicines upon them or subject them to disciplinary sanction, considering it as a prohibited item. For the persons deprived of liberty to avoid sanctions, the medical personnel do not provide to them any medicines.

It should be emphasized that according to Clause 33 of the Annex to the RA Government Decree No 825-N on Approving the Procedure for Organizing the Medical and Sanitary and Preventive Care for Detainees and Convicts, Using the Medical Facilities of Health Authorities and Involving their Medical Personnel for this Purpose, *in case of chronic diseases, when taking medicines is of a permanent nature, the medicine prescribed for 5 days, together with the prescription list provided by the medical unit doctor, may be provided to the detainee or convict, except for the medicines containing narcotic drugs and psychotropic (psychoactive) substances.*

During the visits, the persons deprived of liberty held in the isolation facilities stated that they mostly contacted with the nurse; the nurse visited them every day, asked them about their health and provided medical care as necessary.

On the positive side, the rooms for dental services in the former juvenile section have been furnished with medical equipment, instruments, necessary supplies and medicines, and the 2nd dentist room has been cleaned and well-arranged, as compared to the previous visit.

Any medicines obtained through the relatives of the persons deprived of liberty are recorded in the respective register, but this is done without any medical prescription as to the need to take a specific medicine. Hence, during the visit, the Defender's representatives identified cases when the relatives of the persons deprived of liberty provided medicines the use whereof was not recorded by any medical prescription in their medical document. For instance, on 7 June 2022, the relatives of G.A., a person deprived of liberty, transferred for her Salicylic Acid and Heat Patch, but the examination of her medical card revealed that G.A. underwent medical examination the last time in April 2022 and there were no prescriptions and reasoning for using them.

The examination of the medicine record registers has shown that there are not enough anti-allergic ointments and Diclofenac, Omez, Mezim forte, Nimesil, Paracetamol medicines in the penitentiary institution. The insufficient quantity of medicine in the Unit and the need for their use is also confirmed by the examination of the Register of the Medicines Brought by the Relatives of the Persons Deprived of Liberty. It is noteworthy that the relatives of the persons deprived of liberty passed to them both insulin syringes and the medicines available in the Unit.

Also, the Unit had no first-aid medicines for young children (such as antipyretics). Reportedly, if necessary, young children continue to be administered pills intended for adults (e.g. Paracetamol) by dividing them in $\frac{1}{2}$ or $\frac{1}{4}$ dose. And the medicines prescribed by the pediatrician are mostly provided by Mayakovsky Primary Health Care Center SNCO.

With regard to this issue, in its letter No //25850-2022 dated as of 13 June 2022, the RA Ministry of Justice provided clarifications to the effect that *medicines to young children are administered at the above-mentioned polyclinic, and if necessary, particularly, in case of high temperature, emergency service shall be called which shall transfer children to a specialized children's medical facilities. Practically, the necessary guarantees to exercise the young children's right to health care are in place.*

Meanwhile, the interviews have revealed that children are transferred to specialized medical centers only in case of further deterioration of their state of health, and before that, they are provided with the dose, corresponding to their age group, of the medicines intended for adults or available at the Unit's pharmacy.

Hence, the juveniles deprived of liberty and the children living with their parents in penitentiary institutions are deprived of access to properly provided first aid requiring medication-assisted intervention.

As for another statement presented in the above letter of the RA Ministry of Justice, according to which the entire scope of the medical services provided by the SNCO under the law includes only the medical care and services of the detainees and convicts by referring to the RA law, still it should not be ignored that the same RA law defines regulations to the effect that the children under 3 of the persons deprived of liberty may stay with them in the penitentiary institution and therefore, it is the State's positive obligation also to organize on a proper general basis, including through adjusting the legislative regulations, the medical care and services of the children under 3 under its care and living in a penal institution.

While there is a separated gynecological room in the juvenile section of the penitentiary institution, it is not sufficiently equipped and does not have the necessary instruments and items for initial gynecological examination, such as: smear slides, Folkman's spoon, etc. It is noteworthy that the

availability of the above-mentioned supplies and instruments are considered compulsory for the gynecological room according to Clause 3 of Annex 3 to the RA Government Decree No 1936-N on Approving the Technical and Professional Qualification Requirements and Conditions Necessary for the Medical Care and Services at the Polyclinics (Mixed, Adult and Children's), Separate Specialized Medical Rooms, Family Doctor's Offices, Medical Out-Patient Clinics, Rural Health Centers, Paramedic and Midwifery Units, Women's Health Clinics and Hospital (Specialized).

The lack of the medicines and necessary supplies and tools for gynecological examination and tests constitute an obstacle to provision of proper gynecological services.

During the monitoring visit, the entries in the gynecologist's visitor register were examined. As compared to the previous monitoring visit, the number of such visits has decreased even more in the past 2 years. Hence, 10 persons deprived of liberty underwent gynecological examination in 2021, and 7 - in 2022 by the date of the visit, and 37 persons - in 2019. It is noteworthy that the Human Rights Defender's visit on 16 March 2022 identified that only 1 person underwent gynecological examination as of that date.

Hence, it is necessary to thoroughly examine all the potential obstacles to ensuring the complete and efficient organization of gynecological services.

The shortage of the medicines and supplies for gynecological medical care raises concern.

It is welcome that the Unit has involved a psychiatrist who prescribes treatment for persons with mental health problems in case of obtaining their consent for the first and only time. However, the studies show that in case a person deprived of liberty refuses in writing the treatment prescribed by a psychiatrist or regularly refuses to take medicines, the need to interrupt or terminate their treatment is not considered and no involuntary treatment procedure is initiated either, and even no informed consent is obtained for resumption of treatment after refusal.

Hence, the examination of the medical card of A.Ch., a person deprived of liberty, showed that she requested "psychiatric consultation medical care", as recorded on the inside cover of her medical card, without the date of "consent". The person received regular treatment and at a next-in-turn psychiatrist's visit in May 2022, following the psychiatrist's examination, psychotropic medication was prescribed to her, and the person did not provide any consent to such prescription. Furthermore, on 28 May 2022, the person deprived of liberty refused in writing to take the medicine prescribed by the psychiatrist and the treatment was interrupted, but the psychiatrist did not consider the need to start involuntary treatment or change the course of treatment. Besides, the person was not notified of her rights stipulated by law with regard to the above-mentioned.

Hence, the proper practices of obtaining the informed consent of the persons with mental health problems deprived of liberty each time for starting their treatment and the control over compliance therewith are not observed, and no control is carried out over such practices.

Furthermore, according to Article 16(1) of the RA Law on Medical Care and Services to the Population, *a person's written consent to a medical intervention is a necessary condition for medical intervention, except for the cases provided for in Article 24 of this Law, that is, as prescribed by the Government in case of any threat to human life and as prescribed by law in case of diseases posing a threat to the people around them.*

However, the findings of the monitoring in the penitentiary institution show that in some cases, medical interventions are administered to the persons deprived of liberty without their written consent, which is inadmissible and contradicts the requirements of law.

Another concern is related to arranging disinfection of the medical instruments and their storage conditions.

The Unit's balance of the disinfecting tools and supplies covers disinfection devices but the proper use thereof is not properly monitored due to the lack of the respective regulations and guidelines for using such devices and storage of the disinfected instruments.

The lack of proper control over disinfection of medical instruments is not compliant with the procedures for taking basic measures to prevent infectious diseases.

The monitoring visit by the Defender's representatives identified difficulties in the medical examination of the foreigners held in the penitentiary institution, mostly due to the language barrier. Those persons were unable to express their complaints and receive proper medical consultation. The language barriers of the persons deprived of liberty not speaking Armenian and the resulting problems are addressed in more detail in the subsequent sections of this analysis.

Another issue is related to improper dispensary control of the persons deprived of liberty; particularly, no proper registration and control of the persons deprived of liberty with chronic diseases is carried out. Hence, a person deprived of liberty A. Zh. suffers diabetes. According to her medical card, she was registered with the Unit on 7 October 2021 but was registered with the dispensary on 4 February 2022. As for ensuring the scope of dispensary control of a person deprived of liberty suffering diabetes as prescribed by Clause 115 of the Annex to the RA Government Decree No 825-N of 26 May 2006, it is noteworthy that such scope was not observed either. Thus, the blood sugar count test of the said person deprived of his liberty was taken in December 2021 and March 2022, whereas according to the above-mentioned legal regulations, *all the patients with diabetes shall, by their consent, take at least 1 blood test (glucometry) monthly, 1 general urine test (with determination of glucose and protein) annually and fundus examination by an ophthalmologist.*

It should be emphasized that the pointed case of improper implementation of dispensary control is not the only one, and this is very worrisome.

Hence, improper implementation of dispensary control of the persons deprived of liberty may lead to uncontrolled development of chronic diseases and grave consequences.

According to the identified information, for the purpose of prevention of diseases, women and juveniles undergo a screening examination once a year at admission to a penitentiary institution or while held there. Such examinations include sections of the physical, hemodynamic data of the person, external medical examination, laboratory examination and counseling. A number of the examined "lists for the implementation of annual preventive visits" come to prove that the annual preventive measures are not taken in full. Thus, for instance, the annual preventive measures administered on 24 March 2022 to Ch.A., a woman deprived of liberty, did not include the planned breast and external examination, PAP smear test and laboratory examination, which raises concern.

According to the information provided by the medical personnel of the Unit, upon admission to the penitentiary institution, the persons deprived of liberty take the compulsory tests for HIV/AIDS, syphilis, Hepatitis C and COVID-19. However, the examination of the register of laboratory tests revealed that the above-mentioned tests are taken a long after the person deprived of liberty is admitted to the penitentiary institution, for a term of up to 1 month or more. Hence, S.O. who was admitted to the penitentiary institution on 28 April 2022 took the above-mentioned tests on 19 May 2022, and Kh.S. who was admitted to the penitentiary institution on the same day, took the above-mentioned tests on 6 June 2022, 39 days after admission. It is noteworthy that the Unit does not still conduct regular tests of the above-mentioned infections, which would make it possible to subsequently identify the cases when the infection was still at its hidden stage and the test gave negative results. According to the provided information, only COVID-19 tests are taken every time a person deprived of liberty enters the penitentiary facilities, e.g. when returning from a court hearing or medical facilities of the health authorities.

With this regard, according to Rule 6 of the United Nations General Assembly Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders /hereinafter

referred to as the “Bangkok Rules”/ of 21 December 2010, *at admission to the penitentiary institution, the health screening of women shall include comprehensive screening to determine primary healthcare needs, and also shall determine:*

(a) The presence of sexually transmitted diseases or blood-borne diseases; and, depending on risk factors, women prisoners may also be offered testing for HIV, with pre- and post-test counseling;

(b) Mental health-care needs, including post-traumatic stress disorder and risk of suicide and self-harm;

(c) The reproductive health history of the woman prisoner, including current or recent pregnancies, childbirth and any related reproductive health issues;

(d) The existence of drug dependency;

(e) Sexual abuse and other forms of violence that may have been suffered prior to admission.¹⁷

According to Rule 18 of the Bangkok Rules, *preventive health-care measures of particular relevance to women, such as Papanicolaou tests and screening for breast and gynecological cancer, shall be offered to women prisoners on an equal basis with women of the same age in the community.*

Furthermore, Rule 9 of the Bangkok Rules requires screening also for the children accompanying women prisoners.

With regard to admission of juveniles to detention facilities, the CPT has highlighted that it was necessary *to ensure that all new arrivals at the institution as well as children returned to the institution after an escape or a transfer elsewhere are medically screened. **Provision should also be made for regular attendance by a pediatrician.*** Also, the CPT stated that it is necessary *to compile a personal medical file for each child, containing diagnostic information as well as an ongoing record*

¹⁷ See https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf

*of his development and of any special examinations he has undergone. In the event of transfer, this file should be forwarded to the doctors in the receiving establishment.*¹⁸

The Hospital for Convicts penitentiary institution has no in-patient service for women and juveniles deprived of liberty, and the in-patient medical care for women and juveniles deprived of liberty is provided at the medical institutions of the health authorities.

At the time of the monitoring visit, the Unit did not keep records of new medical cards for the persons deprived of liberty, and as a result, there was no record-keeping of medical cards for the persons admitted to the penitentiary institution. Moreover, the medical cards in use had typos, and some pages in some of them were in the reverse order.

The lack of medical cards or the typos found therein may cause omissions in the medical record-keeping, for instance, in case of filling out later by memory the full picture of the initial examination of a person admitted to the penitentiary institution or the medical care provided to them.

The examination of the Register of Surgical Intervention Records kept at the Unit has shown that the processed and bandaged injuries of the persons deprived of liberty were not recorded in their medical cards, and the above-mentioned register had no records on any diagnosis and causes of injuries. According to the medical personnel, the register is kept to record the spending of the medicines and medical supplies.

It is noteworthy that the Register of the Records on Detainees and Convicts with Infectious Diseases kept at the Unit had no records but according to the provided information, at least 1 case of COVID-19 infection was recorded in "Abovyan" Penitentiary Institution in 2021.

¹⁸ See CPT's Report on Bulgaria (2002), <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680694040> , Para. 189.

Improper recording and record-keeping of the infectious diseases and the lack of any control mechanisms thereof are not compliant with the requirements of law and may have negative consequences.

Another issue is related to implementing initial medical checkup of the persons deprived of liberty admitted to the penitentiary institution.

Upon entering the penitentiary institution, persons deprived of liberty undergo an initial (external) medical checkup in a separate room at the checkpoint. The area of the room is about two square meters and it has no window for natural lighting. The monitoring identified that there is only one table in the room. Next to the room, there is another room with a transparent glass door, which is not furnished and is used for search.

The clarifications of the penitentiary officers indicate that the initial medical checkup is performed by the Unit nurse. The police convoy battalion officer also reads the records on injuries and confirms them by their signature. According to the medical personnel, the records on injuries are submitted to the investigator at the penitentiary institution. It should be emphasized that according to the legal regulations, the medical personnel of the Unit is under no obligation to forward the above-mentioned information to the investigator and must send a record of the injuries to the law-enforcement agency.

Inadequate recording of injuries in persons deprived of liberty, i.e. their anatomical description, collection of information about the causes of injury and the impermissible practices of not reporting to the law-enforcement agencies are of great concern.

Hence, the Unit keeps a register on Medical Examination of Convicts and Detainees Exiting and Entering the Penitentiary Institution, where the person's health status is recorded as "satisfactory"

and in some cases, only the name the medical facilities of the health authorities and the date and time of exit and return are indicated.

In its 2016 report on Armenia, the CPT also referred to medical examinations carried out in the places of deprivation of liberty as a measure to prevent torture. In particular, by reiterating its recommendations provided in the previous years' reports, the CPT notes that *the primary medical screening of a person at admission to the place of deprivation of liberty, especially the recording and reporting of injuries, is not carried out adequately.*

According to Para 10(e) of the UN Committee against Torture Concluding Observations on the fourth periodic report of Armenia, *the State party should take effective measures to guarantee that all detained persons are afforded in practice all the fundamental legal safeguards against torture from the outset of their detention, in accordance with international standards.*

The State party should guarantee in practice the independence of doctors and other medical staff dealing with persons deprived of liberty, ensure that they duly document all signs and allegations of torture or ill-treatment.

According to Clause 12 of the Annex to the RA Government Decree No 825-N of 26 May 2006, *the medical checkup shall be carried out by the doctors at the SNCO.* According to Part 1 of the Annex to the Decree No 163-L of the RA Minister of Justice of 21 April 2021, *the medical checkup record templates as to torture or other forms of ill-treatment shall be filled out by the doctor who conducts the medical checkup and on non-working days and hours or in the absence of the doctor – by the secondary medical staff member on duty to document alleged cases related to torture or any other forms of ill-treatment of a detained person or convict.*

However, the examination of the medical checkup records reveals that even on working days and at working hours such checkups are conducted only by nurses. Moreover, in some cases, the time of the medical checkup is not indicated. The injuries are not fully described and evaluated.

Reportedly, in case of detecting any injuries in a person deprived of liberty admitted to the penitentiary institution, no cases were ever recorded that such injuries were sustained in consequence of alleged violence, and the respective procedures have not been initiated. However, the private interviews as well as the examination of the respective registers revealed that at least in one case injuries were detected in a person deprived of liberty at admission to the penitentiary institution, and that person stated that such injuries were incurred in consequence of the force used during the arrest but no respective record was drafted based thereon. Furthermore, following the questions by the personnel of the National Preventive Mechanism, a record on the incident was drawn up during the visit, 63 hours after the actual physical injury was identified. **Hence, the procedures established by law have not been observed, which does not comply with the fundamental objective of preventing torture and other forms of ill-treatment.**

It should be emphasized that the Register on the Medical Checkup of the Persons Admitted to the Penitentiary Institution is filled out with omissions and inconsistencies in the columns; the findings of the checkups are not recorded, and there are only notes "satisfactory"; signatures were put in "Nature of injury" column, etc.

Therefore, based on the foregoing, it is necessary to:

- ✓ *Take steps to staff Abovyan Unit of the SNCO with a doctor with "family doctor" specialization or to involve the doctors at the Unit in family medicine training courses;*
- ✓ *In case of complaints by the persons deprived of liberty, organize medical checkups by a doctor and administer medicines only on the doctor's prescription;*
- ✓ *Provide the medical service unit of the women's section with running water and a sanitary unit;*
- ✓ *Carry out renovation works in the rooms intended for medical service in the isolation facilities and in the women's section;*
- ✓ *Exclude availability in the Unit of any medicines subject to destruction and establish express mechanisms for their destruction by observing the procedures established by law;*
- ✓ *Ensure compliance with the hygienic and anti-epidemic requirements set by law for collection and transportation of medical waste; develop clear mechanisms for collection, storage and transportation of medical waste in the Unit and conduct trainings for medical personnel with regard to the foregoing;*
- ✓ *Take steps to replenish the Unit's drug facility with the first-aid medicines needed by the children under 3 kept with their parents in the penitentiary institution;*
- ✓ *Equip the offices in the Unit with the accessories and tools as provided for in the Annex 3 to the RA Government Decree No 1936-N of 5 December 2002;*
- ✓ *Properly ensure the dispensary registration of the persons deprived of liberty;*
- ✓ *Within the state-guaranteed free medical care and services for the persons deprived of liberty recorded under dispensary registration, provide the laboratory and instrumental examinations*

and narrow specialization consultations as defined by the RA Government Decree No 825-N of 26 May 2006;

- ✓ *Develop procedures and templates for giving written informed consent to medical interventions to persons deprived of liberty, by excluding any medical interventions without the person's written consent;*
- ✓ *Any time of providing psychiatric care and service to a person deprived of liberty, obtain their written informed consent and after the person submits a request to refuse it or to stop the treatment, consider the need to start involuntary treatment under the procedure established by law;*
- ✓ *For the purpose of prevention of diseases among persons deprived of liberty, take to the full extent the annual preventive measures already developed;*
- ✓ *Provide the penitentiary institution with the necessary and sufficient volume of medicines and medical supplies;*
- ✓ *Improve the process of providing medicines to the persons deprived of liberty on an as-needed basis by extending the list of the medicines needed by the penitentiary service, increasing their quantity and introducing alternative mechanisms for acquisition of medicines;*
- ✓ *Accept any medicines acquired by the persons deprived of liberty at their own expense or at the expense of their close family to the penitentiary institution based on a respective medical prescription and on the principle of doing no harm;*
- ✓ *Provide adequate conditions for initial medical checkup of persons deprived of liberty;*
- ✓ *Ensure that on working days and in working hours initial medical checkups are conducted by a doctor;*
- ✓ *In cases of alleged torture, conduct a proper medical checkup of the persons deprived of liberty and ensure its proper recording and submission of such records to the law-enforcement agencies in the manner prescribed by law.*

4. Food provision and storage facility

The monitoring visit of the National Preventive Mechanism revealed that the food preparation services for the needs of the penitentiary institution were delegated to a private organization.

In their private interviews to the Human Rights Defender's representatives, the persons deprived of liberty expressed their discontent with the taste, quality, appearance, rations and variety of the food served at the penitentiary institution. They mentioned that the food was not tasty and was often under-salted. They expressed their discontent with the high frequency of serving certain food products (e.g. cabbage). Also, a considerable number of the detainees and convicts held in the penitentiary institution expressed their discontent with the served small portions of meat and also noted that the meat was sometimes served half-cooked or over-fried (burnt).

Persons deprived of liberty informed the representatives of the National Preventive Mechanism that they preferred taking the food brought for them in the parcels by their relatives.

It is noteworthy that the food provided by Ready-Steady LLC is brought to the Penitentiary Institution in general large containers, after which it is weighed and accepted in the Penitentiary Institution. It is very worrisome that at admission, the food is not subject to any control in terms of its quality, energetic value and the sanitary and hygienic conditions of its transportation and storage.

Hence, the lack of proper control mechanisms for ready-made food admitted at penitentiary institutions and legal regulation thereof may lead to various violations, including related to the quality and energetic value of the food and sanitary and hygienic conditions of its transportation and storage.

With regard to the control over the menu, it is noteworthy that along with the Director of Ready-Steady LLC, it is approved also by the Head of "Abovyan" Penitentiary Institution and by the Head of the Household Unit of the said Institution. However, the examination of the food portions

provided in the approved menus has shown that they do not comply with the minimum daily rations provided in Annex 1 to the RA Government Decree No 1182-N of 10 October 2015.¹⁹

Hence, the mechanical approval of the menus by the administration of the penitentiary institution, without reviewing the intended minimum daily food rations in compliance with the requirements of law, is not compliant with the obligation of the administration of the penitentiary institution to properly fulfill their duties defined by law and the State's obligation to properly provide food for persons deprived of liberty.

According to the information provided by the administration, food distribution is carried out by the convicts involved in the technical and household works of the penitentiary institution.

The administration of the penitentiary institution provided to the Defender's representatives the menu submitted by Ready-Steady LLC, which included the daily food rations per person on the weekdays and the total weight thereof. The examination of the submitted documents has shown that in some cases, the food rations served to the persons deprived of liberty were not compliant with the minimum daily rations as prescribed in Annex 1 to the RA Government Decree No 1182-N of 10 October 2015, which raises deep concerns.

Hence, the examination of the menus for the term of May 16 - June 19, 2022 (a total of 28 days) revealed that the specified minimum daily rations of certain food products were not observed. Particularly, in the above-mentioned term, the prescribed minimum daily ration (500 grams) of potato was served only twice: on May 19 and on June 1 - 543g and 621g, respectively), and on the other days, potato was served within 60-483 grams, instead of the minimum 500 grams. For 11 days,

¹⁹ RA Government Decree No 1182-N dated 15 October 2015 on Setting the Average Daily Food Rations, Rationing of Clothes and their Term of Use, Rationing of Bedding and Hygiene Items and their Term of Use for the Persons held in detention at the Penitentiary Institutions of the Ministry of Justice of the Republic of Armenia and on Annuling the Decree No 413-N of the Government of the Republic of Armenia dated 10 April 2003.

vegetables were served at significantly less portions, e.g. 7 grams than the 250-gram minimum portion. The minimum 100 grams of the portion set by the law for milk and dairy products was not observed either. Particularly, the examination of the menus identified that the minimum 100 grams were served only on 2 days within the above-mentioned term, and moreover, on the other days, those products were served in more than 10 times less portions, e.g. 6 grams.

The prescribed minimum daily portions were not observed as to vegetable oil and sunflower oil either. For 13 days vegetable oil, sunflower oil was served less than the 30 milliliters prescribed by law (the smallest portion was recorded on 22 May: 14 milliliters). For butter, the set daily ration is 15 grams, whereas in the above-mentioned term, butter was not served at all on at least 2 days (June 2 and June 9) and on the other days it was served in a significantly smaller portion (e.g. on 16 May - 3 grams and on 17 May - 2 grams).

Other practices raising concern are related to non-observance of the minimum daily fruit ration of 200 grams. The examination has shown that fruits were mostly served in portions of 20 grams, and only on 3 days, on Saturdays, 120 grams were served. Also, the examination of the menus has shown that the rations of the cereals and pasta of 120 grams and 30 grams, respectively, were not observed either. Particularly, for 21 days during the examined term, cereals were served in portions less than 120 grams (e.g. on June 4 - 35 grams or on June 15 - 30 grams), and pasta which, as defined by the respective RA Government Decree, must be served every day, was not served at all on 7 days within the above-mentioned term. Furthermore, on 5 days the pasta ration served were twice less the prescribed 30 grams.

Also, the menus had no juice or fruit juice/compote at all, whereas the law requires serving 100 milligrams of fruit/fruit juice per day.

However, it is welcome that, for instance, cheese was served on a daily basis, whereas it is prescribed to be served 15 days a month.

Hence, it is necessary to carry out proper control over the observance of the minimum daily food rations served to the persons deprived of liberty under Annex 1 to the RA Government Decree No 1182-N of 15 October 2015.

The monitoring visit also identified issues related to serving appropriate rations and variety of food as prescribed by law to the children under 3 of the women deprived of liberty.

Particularly, according to Clause 2 of the RA Government Decree No 1182-N of 15 October 2015, *persons with a child under 3 shall be provided with baby food, and clothes, footwear and soft furniture shall be provided for their child care in the rationing and for the terms set by the RA Government Decree No 815-N of 31 May 2007, in compliance with Annexes NN 1, 2, 3, 4 and 9.*

Whereas, food was served to the children based on the list of the food products provided by the pediatrician at Mayakovsky Primary Health Care Center SNCO, accepted in the health sector and determined by the age specifics, which was intended by the respective letter of the Unit doctor for only 1 of the women deprived of liberty with a child under 3.

Moreover, the food was served to the children at the same daily intervals, without taking into account their age specifics. Reportedly, children are served with almost the same food as adults; sometimes, fruit, milk, and rarely cottage cheese and sour cream are served as well. **Such approach raises deep concerns.**

The examination of the provided documents has revealed that the minimum daily food rations served to the children under 3 as prescribed by the respective annexes to the RA Government Decree No 815-N of 31 May 2007 were generally not observed (for instance, 22g of bread were served instead of the minimum daily ration of 50g, and 83g of potato were served instead of the minimum daily ration of 180g, etc.).

Also, it is noteworthy that the presented diet was intended for children of different age groups, which did not comply with the age groups provided for in the above-mentioned decision.

The above-mentioned issue was also raised during the RA Human Rights Defender's visit to "Abovyan" Penitentiary Institution on 16 March 2022. A letter on the issues documented during the visit was addressed to the RA Ministry of Justice. In this regard, the Ministry of Justice stated that the Penitentiary Service of the Ministry of Justice and the private company supplying food to the persons deprived of liberty negotiated at the Ministry the issue on providing baby food for the children of the persons deprived of liberty with a child under 3, and as a result, they decided to conclude an agreement within the supply contract. According to the agreement, the persons deprived of liberty with a child under 3 will be provided with baby food, without any changes to the financial resources specified in the contract. According to the information provided by the Ministry of Justice, it was intended to conclude the agreement by 15 June 2022. However, as of the unannounced monitoring visit by the National Preventive Mechanism on 13 June 2022, no changes were identified, which is a matter of concern.

Hence, it is necessary to:

- ✓ *Monitor compliance with the minimum daily rations served to the persons deprived of liberty, as prescribed by Annex 1 to the RA Government Decree No 1182-N of 10 October 2015;*
- ✓ *Approve the menus by the administration of the penitentiary institution only if they contain the minimum daily rations as prescribed by Annex 1 to the RA Government Decree No 1182-N of 10 October 2015;*
- ✓ *Take steps to introduce monitoring mechanisms and their legislative regulations as to the safety of the food served by the private company to the persons deprived of liberty and compliance with the minimum daily rations as prescribed by Annex 1 to the RA Government Decree No 1182-N of 10 October 2015;*

- ✓ *Provide the children under 3 with the women deprived of liberty with the appropriate rations and variety of food prescribed by law.*

5. Bathing and washing arrangements

The isolation facility of "Abovyan" Penitentiary Institution has 3 bathrooms, 2 of which are located on the 1st floor and 1 - on the 2nd floor. One of the bathrooms on the 1st floor was connected to the laundry room and was equipped with 2 showers. According to the information provided by the staff, this bathroom is used by those persons deprived of liberty, who want to take a bath separately from other persons deprived of liberty.

In the other bathroom on the 1st floor, adequate conditions were recorded. It was renovated, and the 3 showers in the bathroom were functional. The bathroom was also equipped with a toilet bowl but it had no seat.

The floor and wall tiles in the bathroom on the 2nd floor of the isolation facilities were new, but the plaster on the walls and ceiling had completely fallen off, and there was a need for repair work. The bathroom on the 2nd floor was equipped with 3 showers as well, but 1 of them was not functioning. The bathroom was equipped with an Asian-style sanitary unit. The bathrooms had no separate dressing-rooms with the possibility to keep clothes away from moisture.

The private interviews with the administration of the penitentiary institutions and the persons deprived of liberty have revealed that bathing is arranged in the isolation facilities once a week, on Fridays. The persons deprived of liberty expressed their discontent with this and noted that it would be desirable if the bathing was arranged more often, at least twice a week. Some of the women deprived of liberty reported that bathing was arranged on a specific day of the week and, for instance, in case of not taking a bath on that day due to ill-health, the persons deprived of liberty had no opportunity to take a bath on other days and had to wait for bath till the following week.

With regard to this issue, according to Rule 19.4 of the European Prison Rules, *adequate opportunities should be created for every person deprived of his or her liberty to be able to take a shower 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*, and according to Rule 19.7, *special provision shall be made for the sanitary needs of women.*²⁰

According to the information provided by the administration, the persons deprived of liberty in the women's section of the penitentiary institution have free access to bathing on a daily basis as all the women work and need to have a bath frequently. In this regard, in their private interviews to the representatives of the National Preventive Mechanism, the persons deprived of liberty said that they had the opportunity to take a bath every working day provided, however, that they did not have full bath (without washing their head). Moreover, the women deprived of liberty emphasized that they experience tension with the penitentiary officers if their hair got wet by accident when having bath.

The laundry room in the isolation facilities was combined with one of the bathrooms on the 1st floor. The laundry room was equipped with 1 washing machine and 1 drying machine. According to the provided information, the drying machine is not in use as it runs on 3-phase power which is not available at the penitentiary institution.

The monitoring has shown that the laundry is made on a cell-by-cell basis. Reportedly, the washing machine is primarily used to wash the bedding and linen of the persons deprived of liberty and they wash their clothes in the cells or in the bathroom on the bathing days. It is noteworthy that the clothes and bedding of the children under 3 living with their parent are washed in the cell.

²⁰ See: <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae>

Bathing and keeping personal hygiene are of key importance to the physical and mental health and well-being of the persons deprived of liberty, including women. Taking into account the specifics of keeping hygiene for women, it is extremely essential to provide them with proper bathing and hygiene conditions by providing appropriate facilities and the opportunity to take bath more often.

Based on the foregoing, it is necessary to:

- ✓ *Carry out adequate repair works in the bathrooms to properly ensure the bathing of the persons deprived of liberty;*
- ✓ *Ensure the proper furnishing of the bathrooms and bathing;*
- ✓ *Ensure proper laundry;*
- ✓ *Initiate an amendment to the RA Government Decree No 1543-N dated 3 August 2006, by providing the persons deprived of liberty with a possibility of bathing at least twice a week, based on the necessity and specifics of keeping the general hygiene for the women deprived of liberty.*

6. Walks and occupation

There are 4 parks (cells for walks) for the persons deprived of liberty in the isolation facilities of "Abovyan" Penitentiary Institution, which are equipped with a bench, a trash can and shelters from bad weather conditions.

Despite the availability of respective shelters, the visit recorded that due to the rain, some of the benches in the park were completely wet. No gym facilities or equipment were identified in the parks.

The way from the isolation facilities to the parks lies through iron stairs that are not adapted for persons with mobility problems and for young children, which may, in its turn, be an obstacle to ensuring their right to walks.

The private interviews with the persons deprived of liberty have revealed that oftentimes they do not exercise their right to walk, and if they exercise that right, they spend only 15-30 minutes in the cells for walks. In this regard, the persons deprived of liberty noted that the parks were too small and there was no occupation there and therefore, it was pointless to spend the 1 hour allocated for walks in the cells for walks.

In this regard, it is noteworthy that the right to rest, including outdoor walks, is guaranteed by both domestic and international instruments.

The importance of providing the persons deprived of liberty with a possibility for workout /exercises/ during the walks is also mentioned in the European Prison Rules. Rules 27.3 and 27.4 of the said document provide that *properly organized activities to promote physical fitness and provide for adequate exercise and recreational opportunities shall form an integral part of prison regimes, and prison authorities shall facilitate such activities by providing appropriate installations and equipment.*

Hence, according to Rule 23 of the Nelson Mandela Rules, *every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.*

Part 2 of the said Rule provides that *young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end, space, installations and equipment should be provided.*

The gym of the isolation facilities was located on the 1st floor of the isolation facilities of the penitentiary institution. It is noteworthy that the gym was in a poor condition; the plaster on the walls and ceiling had fallen off and the humidity level was high. None of the workout equipment

found in the gym was functional. They were broken or damaged, which is problematic. Due to such conditions in the gym, the persons deprived of liberty almost did not use it.

Another gym equipped with workout equipment was located in the women's section of the Penitentiary Institution.

In their interviews to the representatives of the National Preventive Mechanism, the members of the administration of the Penitentiary Institution stated that the penitentiary institution held regular sporting events (chess, table tennis, competitions), by involving each time the persons deprived of liberty. This was also confirmed by the persons deprived of liberty who noted that the sporting events were generally organized with the support of their autonomous associations.

Also, the members of the administration of the Penitentiary Institution stated that the Penitentiary Institution regularly held various cultural events. This was also mentioned by the persons deprived of liberty who stated that they mostly took part in the above-mentioned events to get a point in line with the standards for evaluating the information covered in the statement on the convict's personal file and the factual description of their behavior.

Hence, the cultural and sporting events held at the penitentiary institution constitute an essential component in terms of the person's re-socialization and improvement of their behavior and should not be constrained to the possibility of earning points.

Cultural events are held in the hall located on the 1st floor in "Culture Center" premises, which was found in poor condition. Particularly, the humidity level was high there, the plaster on the walls and ceiling had fallen off, and the natural lighting was very low.

On the 2nd floor of the premises, the library is located, which was also in need of repair: the humidity level in the room was high, and there were no curtains, in consequence whereof direct sunlight fell on the bookcases and might damage the books stored there, which is worrisome.

In their interviews with the Defender's representatives, the penitentiary institution staff members informed them that the last time the library was replenished with new books in 2020. The library had both fiction and religious literature, both in Armenian and in foreign languages (Russian, English). According to the information received during the visit, the number of the convicts using the library is not large.

In the library, a personal computer and a microphone were also found. According to the clarifications of the penitentiary institution staff members, the above-mentioned computer and microphone were used during various events. Also, there was a musical instrument (synthesizer) in the library, which was not functional at the time of the visit.

In the room serving as the library, a bag full of sports items (ropes, balls, tennis balls) was found in the corner. It should be emphasized that at the time of the visit, there was a table tennis in the school gym in the penitentiary institution, but the balls were missing. The gym was not equipped with ropes and balls either. The penitentiary institution staff members stated that if necessary, those items were taken from the library.

It is noteworthy that during the monitoring visit, the persons deprived of liberty stated that the issue of their occupation on weekends was problematic as unlike the other days when their day was somehow filled with training courses and activities, on weekends they had no occupation at all.

In their private interviews with the Defender's representatives, the persons deprived of liberty stated that their main occupation in the penitentiary institution was watching TV.

Hence, it is necessary to pay special attention to the issue of ensuring properly the occupation of the persons deprived of liberty as inadequate solution to this problem serves as a factor leading to increased tension in the interpersonal relations and is not compliant with the objectives of re-socialization.

At the time of the monitoring visit, 13 convicts were involved in the technical and household service works at "Abovyan" penitentiary institution; they performed maintenance work in the bathroom, storage room and workout room as well as cleaner's and laborer's work.

Taking into account the foregoing, it is necessary to:

- ✓ *Create a full opportunity for outdoor walks in the parks of "Abovyan" Penitentiary Institution, including by installing proper shelters from bad weather conditions;*
- ✓ *Equip the walk areas in the penitentiary institution with the necessary accessories to do exercises, play games and do sports;*
- ✓ *Carry out the necessary repair works in the gym of the isolation facility, by furnishing it with new workout equipment;*
- ✓ *Hold regular systematic and targeted trainings and events (educational, cultural, sporting, etc.) for the inmates;*
- ✓ *In order to ensure proper organization and implementation of cultural events, carry out repair works in the hall;*
- ✓ *Improve the storage conditions of the books stored in the library;*
- ✓ *Increase the level of occupation by involving the persons deprived of liberty in various targeted occupations (work, education, sports, etc.);*
- ✓ *Take steps to adapt the staircase to the park to the needs of the children with mobility difficulties and young children.*

7. Communication with the outside world

"Abovyan" Penitentiary Institution has 1 room for short visits, equipped with 7 tables with fixed benches.

The room for short-term visits may host several short-term visits at a time but does not provide necessary conditions for private talks of the persons during such visits.

The sanitary unit located next to the room for short-term visits was renovated and was in a satisfactory sanitary condition.

The Penitentiary Institution has 2 rooms for long-term visits. The rooms for long-term visits were in need of cosmetic repair, and the floor there was worn out. The sanitary units of the rooms were equipped with toilet bowls that had no seats.

The monitored rooms for long-term visits had only 1 double bed, which might be problematic in case of visits to the person deprived of liberty by several family members (including children). Also, due to the lack of a separate park, the visitors, including juveniles, had no opportunity to go out for a walk.

There was a separate children's room in the penitentiary institution for visitor children. It was furnished with a sofa, chairs and table, and there were toys available there. During the visit, the humidity level in the children's room was high; the plaster on some parts of the walls had fallen off and the room was in need of cosmetic repair.

The 2 rooms adjacent to the rooms for long-term visits were used for investigative activities and meetings with lawyers. Also, inadequate conditions were identified in the sanitary units of the above-mentioned rooms.

In their private interviews to the Defender's representatives, the women deprived of liberty expressed their discontent with the high tariffs of the telephone communication provided by cards and noted that using them was not financially beneficial. According to them, one card cost between 1200 and 1500 AMD, which might be used to talk only 52 minutes. Also, the persons deprived of liberty expressed their discontent with the small number and short duration of video calls.

At the time of the visit, all the payphones at "Abovyan" Penitentiary Institution were functioning and might be used to call free of charge the hotline of the Defender's Office. Also, it is noteworthy that the respective guidelines for calling the hotline of the Defender's Office were posted next to the payphones, which is welcome. There was a separate room for video calls in the premises formerly used for detention of juvenile convicts. The examination of the video call register revealed that the persons deprived of liberty regularly made video calls.

The interviews of the members of the administration of the Penitentiary Institution have revealed that the video calls were made with the help of the officer of the Social, Psychological and Legal Activity Division. Particularly, they stated that if the call was successful, the officer left the room, and only visual monitoring was carried out through the peephole on the door of the room.

The Human Rights Defender has repeatedly highlighted the importance of maintaining communication with the outside world by the persons deprived of liberty. Communication with family has a positive effect on them, which is also essential for their re-socialization and maintenance of social ties.

During the visit, the issues related to the room for admission of the parcels brought to "Abovyan" Penitentiary Institution and acceptance of the food delivered to the Institution were examined. While the room for acceptance of the parcels was equipped with a device for checking the parcels, in their private interviews to the Defender's representatives, the persons deprived of liberty mentioned that oftentimes, the food entering the penitentiary institution was also checked by

mechanical means, by breaking it up and spoiling its appearance. It is noteworthy that non-disinfection and repeated use of the above-mentioned mechanical items can cause mechanical contamination of food and spread of infection.

Taking into account the foregoing, it is necessary to:

- ✓ *Ensure the possibility for the visitors to have private talks with their relatives in case of holding several short-term visits at a time;*
- ✓ *Provide proper conditions in the rooms for long-term visits, including their sanitary units;*
- ✓ *Provide long-term visitors, including juveniles with a possibility of going out for a walk;*
- ✓ *Carry out cosmetic repairs in the children's room of the penitentiary institution by equipping it with toys and accessories for children of different age groups;*
- ✓ *Take steps to reduce the payphone tariffs;*
- ✓ *Exclude the practices of unnecessary mechanical inspection of the food in the parcels accepted at the institution.*

8. Social, psychological and legal services; re-socialization of persons deprived of liberty

A special direction of the Human Rights Defender's activity is the protection of the rights of juveniles in places of deprivation of liberty or in other detention facilities. In this regard, the activities of the National Preventive Mechanism are carried out through a special methodology by independent experts specialized in the field and are based on international standards.

The number of the juvenile detainees and convicts held at "Abovyan" Penitentiary Institution is generally small, which should increase the efficiency of the working activities carried out with each of them.

The "Abovyan" Penitentiary Institution has 2 psychologists, one of whom is a penitentiary officer and provides psychological services to the persons held in the isolation facilities, including the

juveniles. And in the women's section, the psychologist is employed by a service contract. It is noteworthy that till February 2022, the psychologists served opposite sections: at the time of the visit, the psychologist employed at the women's section previously served the persons held in the isolation facilities and the psychologist serving the isolation facilities was employed in the women's section.

The Penitentiary Institution had 2 separate office rooms for provision of psychological services, one of which was located in the women's section and the other one - in the isolation premises.

Reportedly, the office intended for psychological services in the women's section was furnished only with a table and chairs. During the individual psychological sessions, the psychologist and the person deprived of liberty sit on both sides of the table facing each other.

It is noteworthy that in this case, the table might be a communication barrier and hinder the creation of a therapeutic atmosphere between the psychologist and the visitor. The availability of a table may cause difficulties for the specialist in observing the visitor's physical and non-verbal behavior during the session. Professional and competent observation of non-verbal behavior can contain additional and essential information, which will contribute to increasing the efficiency of the session.

It is important to emphasize that along with the increase in the trust between the psychologist and the visitor during the therapeutic sessions, the physical distance between them may also change.

The monitoring visit revealed that the chairs in the rooms intended for psychological sessions were identical, which is welcome. The similarity of the chairs can create a feeling of equality between the visitor and the psychologist, which is especially important for teenagers due to their age specifics.

The psychologist's room intended for the women and juveniles held in the isolation facilities is furnished in a way that during the session, the person deprived of liberty sits with their back to the

door. Such a position may cause them feel insecure and bring about internal tension as in this case, the person deprived of liberty has no control over the access to the room by outsiders, which may have a negative effect in terms of setting up reliable relationship and creating a safe environment.

Hence, the incorrect arrangement of the furniture of the room intended for psychological support, interior decoration and the insufficiency of other components for effective provision of psychological sessions do not contribute to creation of a psychotherapeutically trustful and safe atmosphere between the psychologist and the visitor in terms of effectiveness of psychological activity.

According to the provided information, the detainees and the convicts, perceiving the psychologists employed at the Penitentiary Institution as penitentiary officers, address them by their surname by adding the title "*Comrade*". Such a title may pose an obstacle to the peer-to-peer principle, an essential prerequisite for setting contact with the visitor and for the visitor to trust the psychologist.

According to the information received during the monitoring, the individual and group psychological sessions with the juveniles are regulated; individual psychological sessions are held once a week and group sessions - twice a month. However, according to the entries in the Register on *Records of Individual Sessions with Detainees and Convicts*, 1 group session with juveniles was conducted in 2022, specifically on 17 May 2022.

According to the provided information, thematic discussions are held during group psychological sessions with juveniles.

Unlike the psychological sessions provided for juveniles, those provided for female detainees and convicts are not compulsory; they are held exclusively by the voluntary declaration of their will by the persons deprived of liberty. Reportedly, they meet the representative of the Social, Psychological and Legal Activity Division at least once in the quarantine unit. At that, the meeting mostly aims to

familiarize the persons deprived of liberty with the internal regulations of the penitentiary institution.

The psychologists make notes on the activities conducted by them in the Register on Records of Individual Sessions with Detainees and Convicts.

The examination of the above-mentioned register in the women's section indicates that starting from 1 January 2022 by the time of the visit, about 216 sessions (group and individual) were held in frames of the psychological activities with the convicted persons. It is noteworthy that the entries in the above-mentioned register include *a person's name, the type of psychological activities (individual, group) and the topic of the conversation.*

The entries have no description by a narrow specialist of the working process or any information about the applied techniques, methods, methodologies and outcomes.

Hence, the entries on the activities by the psychologists do not reflect the nature and purpose of such activities and the subsequent course and outcomes of the planned work. The entries do not contain any description of the working process or any information about the applied techniques, methods and methodologies.

In their private interviews to the representatives of the Human Rights Defender, the convicts showed a negative attitude towards the psychological activities in progress, especially in the context of the changing specialists.

The atmosphere of mistrust in psychological activities among the convicts raises deep concerns.

According to the provided information, the psychologist practicing in the women's section (contract employee) does not initiate any interdisciplinary discussions, and the psychologist practicing in the

isolation facilities and with juveniles (penitentiary officer) has interdisciplinary discussions with the psychiatrist as necessary, mostly by phone calls or meetings in the course of their working activities. No entries on any interdisciplinary discussions are made in the convict's individual card or any other document. If during the individual psychological sessions, the visitors raise an issue related to the other specialists (lawyer, social worker), the psychologist practicing in the isolation facilities and with juveniles contacts such specialists and presents the issue. Such practices are welcome as in this way the psychologist attempts to keep within their professional boundaries by contributing at the same time to raising awareness among the persons deprived of liberty on the psychologist's role.

Hence, there are no uniform mechanisms for recording and monitoring the joint activities of the psychologist, psychiatrist, social worker and lawyer. The lack of any regular interdisciplinary cooperation hinders the efficiency of the activities carried out with persons deprived of liberty and the competent planning of further activities.

The examination of the individual cards of the convicts proves that the Plans for Convict's Improvement Process sections thereof lack any substantive descriptions of the planned working activities. The entries available in the above-mentioned section are mostly typical and formal/nominal in nature. In a number of individual cards, the entries in the *Outcome of Activities* Table either are simply missing or are again of a formal nature by including only a simple listing of actions. There were no entries found on the milestone achievements and current obstacles as to the above activities either.

Hence, the entries made by the psychologist are of a formal nature, do not reflect the activities completed with the person deprived of liberty, a clear description of their psychological state and the outcomes of such activities.

A diagnostic methodological package is provided for a person deprived of liberty, which includes the Eysenck Personality Questionnaire (EPQ), A. Bass and A. Darki methods for diagnosing

indicators and forms of aggression, and M. Rokich's value orientation and family sociogram method. The above-mentioned package also includes J. Raven's Standard Progressive Matrices intelligence testing, but no intelligence testing methodology is reported to be applied among the persons deprived of liberty.

The detainee's and convict's individual card has a Section on *Psychological Characteristics of the Convict* that should contain entries on the person's emotional state, adaptability, interpersonal relationships, temperament, intellectual level and other psychological features. It is very worrisome that in the individual cards of a number of persons, this section is merely not filled out.

Other problematic practices in this regard are related to filling out by the specialist of the section on a person's intellectual level based on their personal observations. Hence, it turns out that the individual cards with an entry on the intellectual level of a person do not rely on any scientific reasoning. Whereas, the evaluation of a person's intellectual level by scientifically-based methods may guide the specialist in terms of arranging their further activities both during individual and group sessions.

Hence, the diagnostic package applied at the Penitentiary Institution needs to be supplemented. The package in use at the moment does not include any tools to assess the person's adaptation level as well as identify their interpersonal relationships and test their intellectual level as indicated in the respective section of the convict's individual card.

According to the provided information, the psychologist has a prejudiced attitude towards the persons deprived of liberty; particularly, it was reported that the persons deprived of liberty have an average and below average intelligence level and, according to the psychologist, therefore, it is not expedient to apply any intelligence testing methodology and also psychotherapeutic activities are reasonable and effective for persons with a higher than average intelligence level who are capable of self-analysis and reflection.

The psychologist's unprofessional attitude towards the visitors may cause a serious obstacle in terms of establishing contact with them and ensuring the effectiveness of further activities. Also, it is noteworthy that during the visit, the psychologists employed at the Penitentiary Institution raised the issue of the high level of resistance to psychological activities among the convicts and detainees, which might be caused by a number of factors, including by the lack of a safe atmosphere between the psychologists and the detainees and convicts.

A key component of providing effective psychological services is the professionalism and competence of the specialist and their efforts based on the humanistic approaches of the human nature.

At "Abovyan" Penitentiary Institution, there were 3 women with a child under 3 held in detention. Reportedly, no psychological activities are carried out for the above-mentioned women and their children. Also, it is noteworthy that the current situation of the children can, in itself, have a negative impact on their future mental development. In this regard, it is a must to provide the children at the Penitentiary Institution with psychological support. And it is expedient to provide their parents with trainings on developing parenting skills and to work towards mapping out effective approaches to upbringing, which can have a positive effect on the mental state of parents and ensure the healthy development of the children.

Hence, taking into account the specifics of the environment as well as the impossibility of communication with their peers and the age features of the children, psychological support for children and their parents is of a critical importance.

Referring to the foreigners in the Penitentiary Institution, it is noteworthy that they have communication difficulties, which also implies complications during the psychological activities carried out with them. Reportedly, psychologists often have to use sign language to contact the

foreigners deprived of liberty, which makes in-depth psychological work activities with foreign citizens almost impossible.

During the monitoring visit, the psychologists expressed their wish that the time for therapeutic sessions during the working day is regulated to the possible extent, as their workload is not regulated in any way.

Also, the monitoring identified that the work activity is not proportionally distributed among the psychologists. Hence, in the women's section, the psychologist serves 23 persons deprived of liberty and the psychologist serving at the isolation facilities - 40 persons deprived of liberty. Moreover, according to Clause 12(2) of Annex 1 to the Decree No 279-N²¹ of the RA Minister of Justice dated 13 July 2016, *the inclusion of juvenile detainees and convicts in social, psychological and legal activities shall be compulsory*, whereas they are kept in the isolation facilities. According to Clause 12(1) of Annex 1 to the said Decree, *the inclusion of detainees and convicts in social, psychological and legal activities shall be voluntary*.

Hence, the workloads of the psychologists engaged in the Penitentiary Institution are obviously different. At that, women held in the women's section generally do not use the services of a psychologist, and the psychologist in the isolation facilities is often emotionally exhausted due to the high level of sessions with women and juveniles.

Another problematic issue is related to the differences between the salaries of the penitentiary officer-psychologist and the psychologist providing psychological services under a service contract. Thus, the penitentiary officer-psychologist's salary is several times higher than that of the

²¹ Decree No 279-N of the RA Minister of Justice dated 13 July 2016 on Approving the Procedure for the Activities of the Structural Units Conducting Social, Psychological and Legal Activities with Detainees and Convicts and on Annuling the Decree No. 44-N of the Minister of Justice of the Republic of Armenia dated 30 May 2008

contractual psychologist. **Taking into account the disproportionate distribution of psychologists' work, the difference in the nature of psychological work (mandatory and non-mandatory), the significant differences in the salaries give rise among the personnel to discontent with social guarantees, which can have a serious impact on the quality of work.**

Also, the monitoring visit has revealed that the psychologists employed by the Penitentiary Institution do not participate in any supervision activities, which is a key component of the professional activity of support specialists. Taking into account the specifics of the psychologists' occupational environment and their disproportionate workload, the emotional burnout syndrome among such specialists is inevitable, which can harm both the specialists and the visitors.

According to the provided information, the psychologists employed by the Penitentiary Institution regularly participate in various trainings, the selected topics whereof concern the organization of their activities. Also, the effectiveness of such trainings has been highly appreciated.

During the monitoring visit, the individual cards of the persons deprived of liberty were examined.

The examination of the entries in the Section entitled *Notes on Individual Sessions and Completed Activities* identified that the first individual session with the juveniles targets issues related to their entrance to the penitentiary institution and adapting to the new conditions, and the juveniles are familiarized with the working activities carried out in the institution, their nature and purpose. Also, their rights and duties and the provisions of the internal regulations are explained to the juveniles.

The examination of the entries in the Section entitled *Notes on Individual Sessions and Completed Activities* in the detainee's and convict's individual cards filled out in the name of the 4 juveniles deprived of liberty show that the individual sessions target the activities aimed at overcoming adaptation difficulties, maintaining a stable mental state, familiarization with the social worker's activities, adaptation to a new environment, being alone in a cell, moving from cell to cell, proper

time management, keeping contact with family, maintaining interpersonal relationships in the cell, developing legal behavior, maintaining stable relationships with cellmates as well as provision of legal advice within the criminal case and ensuring their education.

Hence, the entries made by the specialists are typical and formal/nominal in nature and lack substantive description of the completed activities. Particularly, the entries lack information about the juvenile's mental state and difficulties with perceiving the provided information and information on establishing contacts with the juveniles. The issues above are very important as the described individual sessions are, in fact, the first recorded attempts of communication with the juveniles. The content of such entries and the specifics of the communication with juveniles can be of help to the Social, Psychological and Legal Activity Division specialists in terms of arranging their further activities.

Also, taking into account the fact that the first reception takes place on the very day of admission to the penitentiary institution or within the following 5 days, the juveniles' reactions to the situation may vary greatly, depending on their perception of the situation, age and personal features and a number of other factors. And such features and their clear and meaningful descriptions might be decisive in terms of planning and arranging the further planned activities to be conducted with them.

It is noteworthy that according to the entries in the individual card of a person deprived of liberty A.Ch., the start date of the detention is indicated as 30 April 2019. On 2 May 2019, 3 specialists conducted individual sessions and counseling and explanatory activities with the juvenile aimed at their adaptation to the new environment, refrain from violations, and compliance with the requirements of the internal regulations. According to the entry made on the same day, A.Ch was in a highly emotional state of mind. On 14 May 2019, the specialist made the entry below: *"He/She/ has difficulty with perceiving the situation, regularly cries and experiences the feeling of longing. At the current stage, the parents are involved, too."* Then, on 29 May 2019, the entry below was made: *"Lately, the detainee has shown a positive dynamics in adaptation to the environment."*

He/She/ does not cry and maintains good relations with his/her/ cellmate but is passive in terms of taking part in events."

It is noteworthy that the juvenile committed a number of self-harms; particularly, on 12 July 2019, 8 April 2020, 29 March 2021, 22 April 2021 and 18 December 2021. The entries made by the specialist working with A.Ch indicate the need for more in-depth studies.

According to the information available in the individual card, on 17 July 2019, psycho-diagnostic actions were taken with regard to the self-harm committed on July 12. It appears that the psychiatric diagnostics was conducted after the self-harm whereas it would have been more effective and perhaps might have prevented the self-harm if it had been conducted immediately after the admission to the Penitentiary Institution. Thus, the evaluation of the juvenile's mental state and personality features after making contact with them may reduce the risks of their self-harm as a result of deep professional activities carried out with them.

The examination of A.Ch.'s individual card identified that the person deprived of liberty had pronounced adaptation difficulties and was emotionally unstable which entails the need for more in-depth activity. Moreover, the entries made by the psychologist also had no mention of the current difficulties and achievements of the completed activities, which might give a more complete picture of the juvenile's current condition and the projected complications.

Once again, it should be highlighted that the practices of making proper entries might contribute to a more flexible and targeted provision of further activities with the person deprived of liberty.

Thus, prevention of suicides among the persons deprived of liberty and effective arrangement of the psychological activities with them call for professional guidelines and in-depth psychological activities as necessary.

Taking into account the foregoing, it is necessary to:

- ✓ *Provide the psychologists employed by the penitentiary institution with properly equipped rooms for provision of psychological services;*
- ✓ *Supplement the diagnostic packages to ensure a more comprehensive study of a person;*
- ✓ *Ensure a proper and meaningful procedure for filling out the current documents by specialists and conducting the psychological activities with the detainees and convicts;*
- ✓ *Develop practices of interdisciplinary cooperation and develop a system of forms for such cooperation;*
- ✓ *Develop mechanisms for conducting psychological activities for the convicts with a child under 3 and for their children;*
- ✓ *Develop procedures regulating the work activities of psychologists and review the work load of psychologists by also addressing their social guarantees, including salary.*

9. Negative tendencies

Clause 45 of Annex 1 to the Decree No 279-N of the RA Minister of Justice dated 13 July 2016 stipulates that *the detainees and convicts with a negative tendency /inclination/ shall be deemed to be the detainees and convicts who have a behavioral and personal tendency to violate the internal regulations of the institution or to cause harm to their own life and health or to those of other persons and the convicts who have criminal positions.*

Also, Clause 46 of the afore-mentioned Decree prescribes the procedure for registering and deregistering a detainee and a convict as a person with negative tendencies. Accordingly, *a detainee and a convict shall be registered and deregistered as a person with negative tendencies by the decree of the head of the institution, based on the information or opinions provided by the security, social, psychological and legal, medical service and intelligence /rapid-response units of the institution.*

The analysis of the above-mentioned legislative wording makes it possible to conclude that it does not meet the requirement of legal certainty and may give rise to divergent interpretations and practically lead to a differentiated approach.

Another problematic issue is related to the regulations for registering and deregistering a convict or a detainee as a person with negative tendencies. Practically, the process of registration and especially deregistration of a person based on having negative tendencies is not foreseeable and certain for the persons deprived of liberty, which increases the risk of arbitrariness.

An individual improvement plan is prescribed in the detainee's and convict's individual card, which, among other information, must have notes on the convict's psychological characteristics (Part VI of the individual card), emotional state, adaptability, interpersonal relations, personal qualities, temperament and intellectual level. Also, the motivations for negative behavior, the motivating factor for criminal behavior, the risk of re-offending/recidivism, negative tendencies, social needs and opportunities should be evaluated. The collection of similar in-depth psychological information entails a multilateral and professional psycho-diagnostic process by using psychological research methodology: in-depth interview, structured observation, testing (questionnaire), etc.

However, such activities are generally not carried out in practice: the entries in the individual cards were mostly formal/nominal in nature; they were general and did not contain any detailed description of the plan of multilateral and professional psycho-diagnostic activities.

The examination of the register on Recording Detainees and Convicts with Negative Tendencies has identified that the column entitled *Brief Outline of the Activities Aimed to Reduce Tendencies* mostly have records on information of a general nature, without detailing a clear description of the activities taken to reduce any tendencies.

Summing up the foregoing and based on the importance of solving the current problems, it is necessary to:

- ✓ *Carry out activities with the persons with negative tendencies to reduce such tendencies and duly record such activities in the respective register;*
- ✓ *Define the concept of "negative tendency" and consider the reasoning for classifying certain types of tendencies (self-harm, aggressiveness and conflict) among negative tendencies, taking into account the person's individual risk factor.*

10. Special requirements for conditions of detention and treatment of juveniles deprived of liberty

At the time of the monitoring visit, 4 juveniles and 1 adult (18-year old, who turned 18 during his detention at the penitentiary institution) with the status of detainees were held in "Abovyan" Penitentiary Institution. The adult was held in detention alone.

The 4 juvenile detainees held in the penitentiary institution were placed in 3 cells. 2 of the juveniles were held in detention together and the other 2 were held in detention alone, in separate cells.

The juvenile detainees were held in the cells on the 2nd floor of the isolation facilities of the institution, where the humidity level was high, and the plaster on the walls and ceilings had fallen off and was also destroyed here and there. The above-mentioned cells differed from the cells intended for women only in their furniture; they were furnished with 2 one-bunk beds.

According to the European Prison Rules, *children under the age of 18 years should not be detained in a prison for adults, but in an establishment specially designed for the purpose.*²²

The lack of special detention conditions for the juveniles deprived of liberty is problematic.

²² See: <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae> , Rule 11.1.

The long-term solitary confinement of the persons deprived of liberty against their will remains a concern. Thus, at the time of the visit, the 18-year-old male detainee had been kept alone for 10 months due to the lack of any other adult male detainees in the penitentiary institution.

An adult convict was detained in solitary confinement as well.

His only occupation covers the training classes provided within the secondary education program, and the rest of the day he actually spends in his cell, mostly watching TV. He attends the classes alone and has limited contacts with the male juveniles deprived of liberty despite their good relationship. The juveniles deprived of liberty communicate with each other by banging on the walls of adjacent cells as well as by talking loudly and talking to each other through cell windows.

Hence, due to the absence of other juveniles deprived of liberty and observance of the rule of keeping juveniles separately from adults, the person has been kept alone for a long time (10 months), without any possibility of meaningful human contact.

According to Nelson Mandela Rules, *solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days.*²³

In this context it should be emphasized that delivery of food by a penitentiary officer or observation of the cell for surveillance purposes cannot be considered meaningful human contact. Also, in the absence of targeted programs, the conversations with the social and psychological staff members of the penitentiary institution, walks and separate provision of secondary education are unable to ensure meaningful human contact.

²³ See: https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf, Rule 44.

The European Prison Rules also include requirements for providing persons deprived of liberty with sufficient work of a useful nature, recreational opportunities (sport, games, cultural activities, and other leisure pursuits) and access to educational programs.²⁴

*According to the European Prison Rules, every prison shall seek to provide all prisoners with access to educational programmes which are as comprehensive as possible and which meet their individual needs while taking into account their aspirations. Particular attention shall be paid to the education of young prisoners and those with special needs.*²⁵

*According to the CPT, a lack of purposeful activities is especially harmful for juvenile inmates, who have a particular need for physical activity and intellectual stimulation. Juvenile inmates should be provided throughout the day with a full programme of education, sport, vocational training, recreation and other purposeful out-of-cell activities.*²⁶

The other 2 juvenile detainees were held in solitary confinement due to strained and/or hostile relationships with each other and other juvenile detainees. They are alone during walks, bath and in the gym as well.

According to the clarifications provided by the administration of the penitentiary institution, to ensure the communication of the juveniles deprived of liberty, they change their cells from time to time by a rotation mechanism, so that none of them remains alone for a long time. However, the penitentiary officers noted that they could not place any other persons in the cells of the above-mentioned solitary detainees due to the issues related to ensuring their safety.

²⁴See: <https://rm.coe.int/16806f5b92>, Rules: 26.1-26.3, 26.6, 26.9, 26.10, 27.3, 27.6, 28.1-28.5, etc.

²⁵ See: <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae>, Rules 28.1 and 28.3.

²⁶ See: 24th General Report of the CPT (1 August 2013 - 31 December 2014), <https://rm.coe.int/1680696a9c>, Para. 107.

In their private interviews with the Defender's representatives, the juvenile detainees in "Abovyan" Penitentiary Institution mostly raised the issue of the scarcity of occupation, including of cultural activities and sporting events and other entertainment programs. They wished that football, chess, checkers or other tournaments and film screenings were held more often in the penitentiary. The juvenile detainees mentioned that they were involved in the secondary education programs provided in the penitentiary institution but their main occupation was watching TV.

Therefore, it is unacceptable not only that the juveniles deprived of liberty are held in the women's isolation premises of "Abovyan" Penitentiary Institution but also that there are no special cells for juveniles with conditions appropriate to their age and special needs.

Taking into account the foregoing, it is necessary to:

- ✓ *Hold regular, systematic and targeted training courses and events (educational, cultural, sporting, etc.) for the juvenile inmates;*
- ✓ *Provide the persons deprived of liberty detained in solitary confinement with meaningful human contact;*
- ✓ *Provide separate cells for juveniles deprived of liberty, by ensuring adequate conditions for detention.*

11. Ensuring the right to education of the juveniles deprived of liberty

At the time of the monitoring visit, 4 juveniles with the status of a detainee were held at "Abovyan" Penitentiary Institution; they were involved in general comprehensive education programs. Also, a 19-year-old detainee (female) was involved in the education program, who had not completed the general comprehensive education program before detention and attended the classes separately from the male juveniles.

In this regard, according to Article 38 of the RA Constitution, everyone shall have the right to education. According to Article 10(1)(11) of the RA Penitentiary Code, convicts shall have the right to receive education as provided by law. A similar provision is also prescribed by Article 13 of the RA Law on Treatment of Arrestees and Detainees. The 2nd General Report on the CPT Activities provides that a satisfactory programme of activities (work, education, sport, etc.) is of crucial importance for the well-being of prisoners. This holds true for all establishments, whether for sentenced prisoners or those awaiting trial.²⁷

According to the provided information, one of the juveniles deprived of liberty was transferred to Nubarashen Penitentiary Institution upon reaching the age of 18 but as he had not completed the educational program, the specialists held online courses with him.

At the time of the monitoring, the juveniles were on summer vacation, and some were at the stage of their final exams. The examination of the class schedules of the 2nd semester of the 2021-2022 academic year shows that on weekdays, the juveniles were engaged in the teaching process till 4 pm. Furthermore, in frames of the secondary education program, they study the subjects below: Armenian Language, Literature, Russian Language, English, Armenian History, History of the Armenian Church, World History, Social Science, Algebra, Geometry, Physics, Chemistry, Geography, Biology, Computer Science, Physical Training and Pottery.

In their private interviews to the Defender's representatives, the teachers employed at the Penitentiary Institution mentioned that due to low salaries, they had to combine their work in the Penitentiary with work at a public school, which physically and emotionally exhausts them. This can have a negative impact on the efficiency of teachers' work.

²⁷ See: <https://rm.coe.int/1680696a3f>, Para. 47.

Requirements for providing the persons deprived of liberty with access to educational programs are set forth in the European Prison Rules.²⁸

*According to the European Prison Rules, every prison shall seek to provide all prisoners with access to educational programmes which are as comprehensive as possible and which meet their individual needs while taking into account their aspirations. Particular attention shall be paid to the education of young prisoners.*²⁹

The training courses were held in a separate building urgently needing repair and cleaning. In particular, partial repair works of the drainage system were carried out in the building, and in consequence thereof, the entire building was in a semi-demolished state and full of construction waste, which made it difficult to move around the building. The classrooms were furnished with old benches, desks and other necessary items. The school also had a separate gym which was in need of major repair as well.

At the time of the visit, the gym in the penitentiary institution was not furnished with sports equipment. Particularly, there were no balls, including table tennis balls there. The representatives of the Penitentiary Institution reported that the balls, as well as the ropes, were located in the library of the Penitentiary Institution and were taken from there if necessary.

The whole area of the school premises urgently needed cleaning and the sanitary unit needed major repair.

According to the CPT, a lack of purposeful activities is especially harmful for juvenile inmates, who have a particular need for physical activity and intellectual stimulation. Juvenile inmates should be

²⁸See: <https://rm.coe.int/16806f5b92>, Rules: 26.1-26.3, 26.6, 26.9, 26.10, 27.3, 27.6, 28.1-28.5, etc.

²⁹ See: <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae>, Rules 28.1 and 28.3.

*provided throughout the day with a full programme of education, sport, vocational training, recreation and other purposeful out-of-cell activities.*³⁰

Therefore, it is necessary to:

- ✓ *Take steps to carry out major repair and cleaning works in the school;*
- ✓ *Hold regular, systematic and targeted training courses and events (educational, cultural, sporting, etc.) for the juvenile inmates.*

12. Ensuring the rights of the foreigners deprived of liberty

At the time of the monitoring visit, 6 foreigners deprived of liberty were held at "Abovyan" Penitentiary Institution. They were citizens of Georgia, the Russian Federation, the Republic of Peru, Guatemala, the Islamic Republic of Iran, and the Republic of Kazakhstan. 5 of the inmates were detainees and 1 of them was a convict.

In their private interviews to the representatives of the National Preventive Mechanism, the foreigners deprived of liberty mentioned communication difficulties and particularly the language barrier, as the primary obstacle to protecting their rights, which caused a number of complications in meeting their primary needs, access to medical care and social and psychological integration. As identified by the private interviews, some of the foreigners deprived of liberty had to learn some Armenian words or phrases to make their daily contacts with the staff possible.

In fact, due to the lack of translation services at the penitentiary institutions, it is impossible to carry out effective communication with the persons deprived of liberty who do not speak Armenian. Moreover, the re-socialization and psychological activities are not fully performed with them or such activities are not performed at all. In particular, the persons deprived of liberty stated that due

³⁰ See: 24th General Report of the CPT (1 August 2013 - 31 December 2014), <https://rm.coe.int/1680696a9c>, Para. 107.

to contact and communication barriers, they had no opportunity to fully participate in the cultural events held in the Penitentiary Institution and to fully use medical, psychological and legal services.

Another issue is related to proper provision of the foreigners deprived of liberty with medical care and services, due to their language barrier (see the respective section of the statement).

While back in April 2022, the RA Ministry of Justice concluded a contract to ensure proper translation and interpretation services in 32 languages in 24/7 working regime at all the penitentiary institutions, at the time of the visit, the penitentiary institution did not use such service.

Hence, ensuring the rights of the foreigners deprived of liberty to health care as well as to receive social and psychological support and use the other available services is problematic. This, in its turn, casts doubt on the effectiveness of performance of the activities for improvement and re-socialization of foreign convicts.

The CPT also expressed its position on the issue. Particularly, in its Report on Gibraltar of 2015, the CPT states that *where staff do not have a knowledge of the languages spoken by the inmates, increased use of translation services should be available to facilitate communication.*³¹

Back in its Report on Greece of 1994, the CPT also notes that *the penitentiary institutions were accommodating significant numbers of foreign prisoners and some foreign prisoners did not have a full understanding of the prison regime or of their rights and responsibilities, and there were serious difficulties of communication between prison staff and foreign prisoners. Such a situation can easily give rise to misunderstandings and possibly disputes.* The CPT therefore recommended that *appropriate steps be taken to counter these difficulties (e.g. preparation and translation into relevant*

³¹ See:

<https://hudoc.cpt.coe.int/eng#%7B%22fulltext%22:%5B%22gibraltar%22%5D,%22sort%22:%5B%22CPTDocumentDate%20Descending,CPTDocumentID%20Ascending,CPTSectionNumber%20Ascending%22%5D,%22CPTDocumentType%22:%5B%22vr%22%22%5D,%22CPTSectionID%22:%5B%22p-gbr-20141113-en-12%22%5D%7D> .

*foreign languages of a booklet describing the routine and regime of the prison, the rights and responsibilities of prisoners and staff, and complaints and disciplinary procedures; translation of those expressions most commonly used in daily interaction between prisoners and staff; basic training in foreign languages for designated prison officers).*³²

With regard to solving the language barrier problems and ensuring the possibility of communication between foreigners deprived of liberty and the penitentiary system staff, the Human Rights Defender has repeatedly recommended that the penitentiary institutions involve interpreters in the work with foreigners as well as that phrasebooks are developed, special translation devices are acquired and respective foreign language training courses are held for the staff.

In their private interviews to the representatives of the National Preventive Mechanism, the foreigners deprived of liberty also stated that in the absence of visits of their relatives, they would prefer using the possibility of video calls more often and for a longer term.

Therefore, at the stage of developing a respective resolution on approving the internal regulation for the detention facilities and penal institutions with regard to the adoption of the updated Penitentiary Code, it is necessary to provide for a reasonable frequency and duration of video calls for foreigners.

Another issue is related to the difficulties of making video calls due to the fact that the foreigners deprived of liberty and their families are in different time zones. In particular, foreigners deprived of liberty often have no opportunity to contact their family by a video call as they are in a different time zone and the hours permitted for video calls in the penitentiary institution do not coincide with the time zone of the location of their families.

Therefore, it is necessary to:

³² See: <https://rm.coe.int/16806964c9>, Para. 102.

- ✓ *In order to protect the rights of the foreigners deprived of liberty, ensure the possibility of their proper communication with the administration of the penitentiary institution, by engaging interpreters, developing phrasebooks, acquiring special translation devices or holding respective foreign language training courses for the penitentiary system staff;*
- ✓ *Ensure communication with the persons deprived of liberty who do not speak Armenian in the course of provision of medical care and services;*
- ✓ *Properly notify the foreigners deprived of liberty of their rights and duties in a language they understand, by translating such information into the respective languages as necessary;*
- ✓ *At the stage of developing a respective resolution on approving the internal regulation for the detention facilities and penal institutions, provide for a reasonable frequency and duration of access to video calls by foreigners deprived of liberty.*

13. Working conditions of the personnel

Human rights protection is a comprehensive process which implies guaranteeing the rights of all its participants by ensuring a dignified treatment of each of them and establishing relations that guarantee mutual respect. One of the components of this principled approach is the situation with the rights of the personnel and officers of the competent authorities whose activities are called to protect the rights of the society members. Of course, this also applies to the penitentiary officers, their decent working conditions and social guarantees, including salaries.

The issues calling for revision and systemic changes in the penitentiary system are related to sufficient and proportionate salaries of the penitentiary officers and medical personnel and to creation of flexible incentive mechanisms. These solutions will have immediate positive significance in terms of the situation with ensuring the rights of the persons deprived of liberty and prevention of inhuman treatment and corruption risks in penal institutions.

Another problematic issue is the gender ratio of the penitentiary officers in direct contact with the women deprived of liberty in "Abovyan" Penitentiary Institution.

Thus, according to the information provided by the administration of the penitentiary institution, only 36 of the total number of 135 staff members are women; at that, 13 of them are civil servants. It should be emphasized that female staff occupy 3 out of the 16 positions in the duty group and 18 out of 48 positions in the security unit.

It is noteworthy that as compared to the previous visit, the number of the female penitentiary officers in the mentioned groups in direct contact with the persons deprived of liberty has decreased (by 1 in the duty group and by 3 in the security unit), which is worrisome.

Therefore, ongoing measures should be taken in this regard.

The monitoring has identified that there are no adequate working conditions in place for the penitentiary institution personnel. Particularly, due to the lack of any food outlets for the personnel near the penitentiary institution, the personnel bring dry food from home and have no opportunity to reheat it in the institution.

There is no separate sanitary unit for the checkpoint officers in the women's section premises. Therefore, the penitentiary officers (including male officers) use the sanitary unit on the 1st floor of the women's section the entrance whereto goes through the dressing room of the bathroom of the women deprived of liberty. This problem was also recorded during the previous visits to "Abovyan" Penitentiary Institution.

In the isolation facilities of "Abovyan" Penitentiary Institution, the representatives of the Defender's Office identified inadequate conditions in the offices of the representatives of the administration of

the Penitentiary Institution. In particular, the plaster on the ceiling and on the walls in the rooms had fallen off, the level of air humidity was high and the rooms were in need of repair.

On the 2nd floor of the isolation facilities, there was no room for the personnel; there was only a table for the penitentiary officers in the corridor of the 2nd floor.

Therefore, it is necessary to:

- ✓ *Ensure the sufficient ratio of the female penitentiary officers in direct contact with the women deprived of liberty in the penitentiary institution;*
- ✓ *Fundamentally improve the system of social guarantees for the personnel of the penitentiary system, including the salary;*
- ✓ *Provide adequate working conditions for the officers of "Abovyan" Penitentiary Institution, including offices with adequate conditions, proper conditions for taking food, and sanitary units in sufficient sanitary and hygienic conditions.*

4.2. "Armavir" Penitentiary Institution

1. Medical Care and Services

The visit revealed that the positions in the Unit of the Penitentiary Medical Center SNCO /hereinafter referred to as the "Unit"/ located in "Armavir" Penitentiary Institution were mostly filled. As of the time of the visit, doctors from the other units of the Penitentiary Medical Center SNCO were also sent there on business. As a result the doctors below were involved in the works of the Unit: a dentist, a psychiatrist, a surgeon, an endocrinologist, a neurologist, a gastroenterologist, a nephrologist, a therapists and a sonographer. Also, it was possible to invite ophthalmologists, dermatologists, otolaryngologists and other narrow specialists as necessary. 2 paramedics were on round-the-clock duty. There are no doctors on duty in the penitentiary institution, and the Unit has no positions of medical attendants.

The study has shown that not all of the persons deprived of liberty are registered with a medical facility offering licensed out-patient polyclinic medical care and services, particularly, Polyclinic Service of Master Pharm Medical Center.

As confirmed by the Head of the Unit, difficulties in registering the persons deprived of liberty with the above-mentioned medical center are related to the lack of temporary residence documents upon the foreigners deprived of liberty, which makes it impossible to register the foreigners in ArMed electronic healthcare system and in consequence thereof, to provide them with medical services.

As a result, narrow professional consultations and examinations of the persons deprived of liberty cannot be carried out in full at the polyclinic level.

Also, difficulties were identified with regard to provision of documents with a QR code certifying vaccinations against COVID-19 of foreigners deprived of liberty. The above-mentioned document is not issued to them as they are not registered with the electronic healthcare system, which, in its turn, causes further difficulties in arranging extradition of such foreigners to their home countries. The foreigners deprived of liberty are only provided with a statement on having been vaccinated against COVID-19.

In separate cases, difficulties were identified also with regard to arranging out-patient examinations of the above-mentioned persons and obtaining the results thereof. Whereas, according to Clause 22 of the Annex to the RA Government Decree No 825-N dated 26 May 2006 on Approving the Procedure for Organizing Medical and Sanitary and Preventive Medical Care for Detainees and Convicts, Using the Medical Facilities of the Health Authorities and Involving their Medical Staff for this Purpose, *to use the services of narrow specialists, including to undergo laboratory and instrumental examinations, the detainees and convicts held in penitentiary institutions, shall be registered, based on the data provided by the penitentiary service and application by the director of*

the SNCO, along with the list of the respective persons, with the medical institution providing licensed outpatient-polyclinic medical care and services which is located the closest to the penitentiary institution.

The above-mentioned regulation does not provide for any other mechanisms for out-patient and polyclinic medical care and services for the foreigners deprived of liberty.

Thus, the technical difficulties related to registration with the electronic healthcare system should not hinder the proper provision of out-patient and polyclinic medical care and services to the foreigners deprived of liberty.

The Medical Care Division premises of the Penitentiary Institution were initially intended to include a unit for provision of in-patient medical care. There unit had 19 wards, 17 of which housed at the time of the visit 26 persons deprived of liberty who mostly needed care. Reportedly, 4 of the persons deprived of liberty found there were persons who declared a hunger strike, and 1 person (transgender) was isolated by the decree of the Head of the Penitentiary Institution. In the unit, the persons deprived of liberty were kept either alone or 2 in one ward. The doors of all the wards were reinforced with additional iron bars.

The premises also had rooms for medical treatment, dental service, wound-dressing and first medical aid, and medical waste collection. The cleaning works in the unit are carried out by the persons deprived of liberty held in detention there.

The monitoring visit identified that one of the wards in the unit, where 1 person was kept, was equipped only with a bed and had no other furniture and necessary accessories, particularly: a table, a chair or a bench, a hanger or a cabinet for household items. In another ward, the benches attached to the table had no seats. Whereas, Clause 46 of the Annex to the RA Government Decree No 1543-N dated 3 August 2006 provides that *the cell of the detention facilities or penitentiary institution for*

the detainees must at least be provided with a table, a bench or a chair, clothes hangers, a cabinet for household items, a radio-set and a trash can.

Thus, the persons deprived of liberty are not provided with proper conditions of detention, and the provisions regarding the furnishing of the cells as defined by law are not observed, which is unacceptable.

The monitoring visit has identified problems related to the improper sanitary and hygienic conditions of the medical premises. Thus, insufficient sanitary and hygienic conditions were recorded in the corridor of the unit where there was some garbage collected.

Also, it should be emphasized that the first aid room (the wound-dressing room) of the medical premises was in an unacceptable sanitary and hygienic state. Apart from the urgent need for repair (due to the high level of humidity, the plaster had fallen off the walls), there was a stench in the room and there were used medical supplies and bloody bandages found everywhere. Apart from the medical waste, there was also household waste found there. Another problematic issue is that the repeated monitoring during the visit revealed that no cleaning works were carried out in the wound-dressing room and the insufficient sanitary and hygienic conditions were not remedied, and still, the staff continued providing medical care there to the persons deprived of liberty, in particular, such persons had their wounds bandaged there.

The same situation was identified in the room set apart for ultrasonic examinations as well. Thus, the room was found in a messy and unhygienic condition, with empty vials of Ultrasound Gel and used toilet paper everywhere.

The unsanitary conditions in the medical premises of the Institution are unacceptable and do not contribute to ensuring the right to healthcare of the persons deprived of liberty.

The visit also identified problems related to provision of the prescribed medication to the persons deprived of liberty. In particular, A.A., who was on a hunger strike, was transferred to "Armavir" Penitentiary Institution on 31 August 2022 from the psychiatric unit of Hospital for Convicts penitentiary institution, where he had received respective treatment starting from 4 April 2022. According to the discharge epicrisis dated 29 August 2022, the attending doctor prescribed A.A. out-patient treatment: Olanzapine: 5 mg once a day and Lorazepam: 1 mg twice a day. In his private interview to the representatives of the National Preventive Mechanism, A.A. said that his well-being worsened as he was not provided with the psychotropic medicine prescribed to him. For that reason, A.A. declared a hunger strike and demanded transfer to Hospital for Convicts penitentiary institution. The examination of A.A.'s medical card showed that he went on a hunger strike due to "health problems". Also, the examination of his prescription lists showed that he was not given the medication prescribed by the psychiatrist. It is noteworthy that the medical personnel of the Unit were not aware of the psychiatrist's prescription.

It was only after the conversation with the representatives of the National Preventive Mechanism that the Person Responsible for the pharmacy of the Unit drew up an order for medicine to provide the prescribed medicine to the person deprived of liberty. **Such practices are highly unacceptable.**

In another case, B.D., a foreigner deprived of liberty suffering diabetes, who had been admitted to the penitentiary institution 4 days before the visit, was not provided with the prescribed anti-diabetic medicine.

Thus, even in case the persons deprived of liberty are discharged from the in-patient facility and are transferred to "Armavir" penitentiary institution to continue their out-patient treatment, they still remain beyond the control of the Unit and do not receive the medicines prescribed to them, which causes them to resort to an extreme step - a hunger strike.

The monitoring has identified that the psychiatrist visits the penitentiary institution once a week and, if necessary, the persons deprived of liberty have to wait for the psychiatrist's next visit. It should be emphasized that "Armavir" Penitentiary Institution is mostly intended for detainees and if any mental health problems are recorded at their admission, they are also examined by a psychiatrist at their regular visit.

The private interviews and the examinations conducted in the course of the monitoring have shown that the Unit lacks a number of medicines prescribed to the persons deprived of liberty: e.g. Concor, Cardiolife, etc. Also, there were no sufficient quantities of analgesics, antipyretics and anti-inflammatory ointments. The insufficiency of the range and quantity of the medicines available in the Unit is also evidenced by the large quantity of the medicines transferred to the persons deprived of liberty by their relatives.

Reportedly, issues have been also identified with arranging the purchase of medicines. Thus, medicines are purchased at the expense of the RA state budget, under the procedure established by the RA Law on Purchases, that is, by the centralized competition principle, with predetermined medicines and dosages. When the institutions run out of the necessary medicines or need medicines the purchase whereof might not have been planned in advance, the Penitentiary Medical Center SNCO is not able to obtain them in time and start the treatment prescribed to the persons deprived of liberty. In many cases, the prescribed medicines are replaced with a medicine with the same chemical composition, but such medicines are not always available in the SNCO's pharmacy.

The visit has identified that the persons deprived of liberty mostly acquire the necessary medicines at their own expense, and/or such medicines are transferred to them by their family members. To alleviate the complaints of the persons deprived of liberty, in some cases the medical personnel have to acquire the necessary medicines at their own expense, **which is unacceptable.**

The key directions and principles of the public policy for provision of medicines established by law must also be applicable to the medical care and services provided to the persons deprived of liberty.

Obviously, the problem must get a fundamental solution; that is, the purchase of the medicines should be organized in such a way that the range of the medicines is increased and, in the case of medical prescription, the person deprived of liberty is provided with the necessary medical treatment without any delays.

The medicines brought to the Unit by the families of the detainees are accepted upon application and are recorded in the respective register. Most of such medicines are provided to the persons deprived of liberty without any doctor's prescription. It should be emphasized that some of the medicines brought by the families were available in the Unit.

In the course of the monitoring, the persons deprived of liberty raised problems related to receiving state-guaranteed free and preferential medical care and services in the medical facilities of the health authorities under the state targeted health programs. Mostly, such problems concerned delays in the transfer to the treatment facilities of the health authorities, difficulties in organizing the transfer and keeping them in the treatment facilities of the health authorities.

The administration of the penitentiary institution also expressed their concern about this by noting that limited resources make it difficult to ensure the transfer of the persons deprived of liberty to the medical facilities of the health authorities.

Problems were also identified with regard to the consumption of the funds intended for free medical care and service programs guaranteed by the state. Thus, such difficulties were recorded back in September 2022; despite the availability of an appropriate referral for free medical care and services guaranteed by the state for the medical examinations and/or in-patient treatment, the medical facilities of the health authorities refused to serve the persons deprived of liberty.

The persons deprived of liberty have expressed their concerns that in order to receive in-patient treatment at the medical facilities of the health authorities, a fee for a separate ward has to be paid at the expense of the persons deprived of liberty as the penitentiary service is unable to ensure their safety in a general free ward.

However, the RA Government Decree No 318-N dated 4 March 2004 on State-Guaranteed Free and Preferential Medical Care and Services sets the list of the socially disadvantaged and separate (special) population groups, the members whereof, regardless of the type of illness, are entitled to receive free and preferential medical care and services.

According to Clause 5(1) of “Information” Section of the Form 1 approved by Annex 7 of the said Decree, *the full range of the state-guaranteed free in-patient medical care and services shall include, among others, provision of a hospital ward.*

In regard with the foregoing, it is noteworthy that the insufficiency of human, financial and any other resources cannot justify a non-compliance with a person's right to health care.

Also, difficulties were identified with the necessary transfer of the persons deprived of liberty from the service area of the territorial emergency medical aid service. Thus, the emergency medical care services for transferring a person to specialized or multi-profile medical facilities outside the service area, including the Hospital for Convicts penitentiary institution are paid services, which, in its turn, gives rise to further difficulties in organizing proper medical care and services.

As confirmed by the Unit personnel, the persons deprived of liberty are transferred to Yerevan city for free if they have been first transferred to “Vagharshapat” Medical Center and it has been impossible to arrange their proper medical care there. This may be time-consuming and inappropriate, as the emergency medical service personnel are informed in advance about the

possible range of medical care and services provided at the said Center. **Such practices are unacceptable and create additional difficulties in effective provision of medical care and services for the persons deprived of liberty.**

In their private interviews with the Defender's representatives, the inmates with mobility problems said that they had difficulties related to transportation to the court to attend the court hearings or to other penitentiary institutions. Particularly, there are no adapted vehicles for transporting persons using wheelchairs or persons with any other mobility problems.

The lack of adapted vehicles hinders the exercise of the rights of the persons with mobility problems, which is unacceptable.

In *Jhangiryan v. Armenia*, the European Court of Human Rights has found that the transportation of a prisoner with mobility problems in standard prison vans intended for their transportation might give rise to an issue under Article 3, where particularly, a post-operative patient had been transported on a stretcher in a non-adapted prison van.

Moreover, the above-mentioned vehicles have no ventilation systems and this causes additional difficulties in driving them in hot weather, and some of the persons deprived of liberty refuse to use such vehicles. The vehicles are problematic also due to their obsolescence and non-functionality. According to the persons deprived of liberty, in some cases after stopping at a red light, the vehicle is restarted with difficulty.

In the Penitentiary Institution, the medical waste (bandages, other used medical supplies, including sharps) was collected and stored in a separate room in the medical premises. Also, used medical supplies and bloody bandages, stored openly, were identified in the wound-dressing room. Apart from the medical waste, there was also household waste found in the room.

The plastic containers for collection of the used sharp-edged medical waste used in the dentist room and in the waste collection room were also found in an open state.

Storage of the medical waste in improper conditions, without maintaining sanitary and hygienic norms, creates a favorable environment for infections, which is of great concern.

It should be emphasized that according to Clause 25 of Annex 1 approved by the Decree No 03-N of the RA Minister of Health dated 4 March 2009 on Approving the Sanitary Rules and Norms No 2.1.3-3 “Hygienic and Anti-Epidemic Requirements for the Use of Medical Waste”, *after placed in the containers, all types of medical waste shall be closed hermetically, and the pathological and anatomical, microbiological, sharp-edge and chemical wastes shall be also sealed, after which the staff member responsible for collection, placement, closing and transporting of the medical waste shall fill out a label by specifying thereon the type of the medical waste placed therein, the specific time, day, month and year /date/ of its placement in the container as well as his/her name and surname and the name of the organization.*

Also, problems were identified with provision of medical and social expert examinations. In particular, according to the provided information, the medical and social expert examinations are delayed due to the fact that the full scope of the necessary examinations is not ensured. The medical and social expert examination committee does not indicate which examinations or narrow-specialist consultations are required in each case to fill the complete package of the medical documents of a person deprived of liberty.

Moreover, the improper provision of such expert examinations is also conditioned by the financial difficulties within the state-guaranteed free medical care and service program, and such examinations are delayed due to insufficient resources (guards).

Delays in the medical and social expert examinations not only do not contribute to ensuring the right to health care of the persons deprived of liberty but also hinder the exercise of their social rights.

According to the medical personnel, the persons admitted to "Armavir" Penitentiary Institution undergo rapid testing for HIV, Hepatitis C and COVID-19, which is welcome. However, the issue of providing treatment in cases of detecting Hepatitis C has not been fully resolved yet. In particular, at the time of the visit, some of the persons detained at "Armavir" Penitentiary Institution and diagnosed with Hepatitis C had not yet received treatment in frames of the Hepatitis C Diagnosis and Treatment Program for the Socially Disadvantaged and Separate (Special) Population Groups Entitled to State-Guaranteed Free and Preferential Medical Care and Services.

It is appreciated that the Unit is provided with a dentist room, respective supplies, materials and disinfectants. The monitoring showed that the dentist room was equipped with 3 dental chairs, 1 of which was worn-out. Reportedly, that chair was intended for invited civilian doctors and, therefore, had no necessary equipment.

The lack of round-the-clock water supply in the dentist room raises concern as it makes it difficult to wash and disinfect the dental supplies.

Another issue is related to malfunction of the x-ray device in the dentist room. According to the provided information, it regularly breaks down.

Dental services were provided by the Unit's 2 dentists, one of whom worked part-time. They kept a register on Provision of Dental Medical Care and Services to Detainees and Convicts where they made respective entries on the data of the patients served as well as diagnosis or complaints, medical interventions, type of patient reception, temporary release from work and prescriptions. The entries were confirmed by the doctor's signature. Reportedly, the dental services provided at the Unit include dental extraction and treatment.

It is noteworthy that in their private interviews with the Defender's representatives, the persons deprived of liberty expressed their discontent with the dental services by noting that the patients were served with delays.

The examination of the register on Provision of Dental Medical Care and Services to Detainees and Convicts has revealed that 10-20 patients are received daily.

Another issue is related to obtaining the informed consent of the persons deprived of liberty in case of medical interventions. The monitoring visit has identified that no written informed consent is obtained from the persons deprived of liberty for medical interventions (treatment, examination, wound-dressing, etc.). Thus, the aforementioned consent was missing in the medical cards of the persons receiving treatment, including psychiatric care and services at the Unit.

Whereas, according to Article 16(1) of the RA Law on Medical Care and Services to the Population, *a person's written consent to a medical intervention is a necessary condition for medical intervention, except for the cases provided for in Article 24 of this Law, that is, as prescribed by the Government in case of any threat to human life and as prescribed by law in case of diseases posing a threat to the people around them.*

Hence, the legislative requirements for obtaining informed consent of the persons deprived of liberty, including persons with mental health problems, for initiating their treatment are not observed, and no control is carried out over such practices.

Therefore, it is necessary to:

- ✓ *Organize registration of the foreigners deprived of liberty with the medical facilities providing licensed out-patient and polyclinic medical care and services to the persons deprived of liberty as prescribed by the RA Government Decree No 825-N;*

- ✓ *Properly organize the medical examinations and narrow specialist's consultations of the foreigners deprived of liberty;*
- ✓ *Provide the wards of the medical premises of the penitentiary institution with the necessary items for furnishing the cell as prescribed by law (table, bench, cabinet for household items, etc.);*
- ✓ *Ensure proper sanitary and hygienic conditions in the medical premises of the penitentiary institution and particularly in the rooms for medical interventions and in the corridor;*
- ✓ *Provide at the Unit a position of a hospital attendant;*
- ✓ *Provide the persons deprived of liberty with the necessary medicines and medical supplies in sufficient quantity and variety;*
- ✓ *Exclude the impermissible practices of non-provision of necessary medicines to the persons deprived of liberty, if such medicines are prescribed by a doctor;*
- ✓ *Consider the possibility of daily or more frequent visits by a psychiatrist to the penitentiary institution, taking into account the workload of the institution;*
- ✓ *Improve the practices of providing the persons deprived of liberty with medicines on an as-needed basis, by extending the list of the medicines required by the Penitentiary Medical Center SNCO, increasing their quantity and introducing alternative mechanisms for acquiring medicines;*
- ✓ *Ensure the timely provision of the necessary medical care for the persons deprived of liberty in the medical facilities of the health authorities without unnecessary delays;*
- ✓ *Take steps to provide free transportation of the persons deprived of liberty to the medical facilities of the healthcare authorities;*
- ✓ *Provide the persons deprived of liberty receiving in-patient treatment at the medical facilities of the healthcare authorities with free access to wards;*
- ✓ *Ensure the transportation of the inmates with mobility problems in vehicles with adapted and proper conditions;*

- ✓ *Observe the medical waste collection and disposal measures as stipulated by the Decree No 03-N of the RA Minister of Health dated 4 March 2009 on Approving the Sanitary Rules and Norms No 2.1.3-3 “Hygienic and Anti-Epidemic Requirements for the Use of Medical Waste”;*
- ✓ *Take steps to improve the dental services provided at the Unit;*
- ✓ *Develop procedures and templates for giving written informed consent to medical interventions, including provision of psychiatric care and services to the persons deprived of liberty, by excluding any medical interventions without the person’s written consent.*

2. Expired medicines and medical supplies

The monitoring visit by the National Preventive Mechanism identified violations of the conditions and terms of storage of medicines and medical supplies at the Unit.

Hence, expired medicines or medicines with unknown expiry dates, specifically, 7 vials of Caffeine-benzoate and 3 vials of Diclofenac (expiration date: before September 2022), were found in the daily use medicine bag of the nurse serving the 3rd premises. Expired medicines were also found in the room for medical interventions, particularly: 1 pack (12 vials) of Cyanocobalamin (expiration date: June 2022), 5 vials of Diclofenac for injection (expiration date: September 2022), 5 COVID-19 rapid tests (expiration date: before 17 March 2022), needles for taking blood sample (expiration date: before 9 August 2022) and 7 vials of Gentamicin-Zdorovye (expiration date: before September 2022).

Also, expired medicines were identified in the pharmacy of the in-patient unit of the premises, where 5 packs of Amprilan HD pills (129 pills) was found, with its expiration date before September 2022.

Expired medicines were also identified in the Unit's dentist room. Thus, 9 vials of Caffeine- benzoate (expiration date before September 2022), 1 pack of Endomethasone N. Septodont sealer (expiration

date: August 2022) and 1 pack of Dentine-dough (expiration date: January 2022) were found in the medicine cabinet.

The situation was also problematic with the medicine cabinet in the room designated for first aid provision, the door whereof had a note reading "Laboratory".

Hence, the cabinet contained 1 vial of expired Fucorcinum (expiration date: June 2022), 2 vials of Brilliant Green solution (expiration date: December 2020 and September 2019), 1 pack of Water for Injection (expiration date: June 2022), 2 Foley catheters (expiration date: April 2020) and 1 vial of Riboxine (expiration date: July 2020). Such contents of the first aid room (wound-dressing room) medicine cabinet are extremely unacceptable and raise deep concerns.

1 pack of Nitroglycerin (expiration date: September 2020) and 10 vials of Ultrasound Gel (expiration date: June 2022) were found in the cabinet located in the room designated for ultrasound examination. The analysis of the Ultrasound Examinations register shows that the last examination was carried out on 29 August 2022, during which expired medical supplies were actually used. Such an approach is very worrisome.

Deep concerns are raised by the identified practices of availability of injection medicines with the persons deprived of liberty. Particularly, in his private interview on 20 September 2022, one of the persons deprived of liberty presented to the Defender's representatives an expired Spasmalgon solution (expiration date: before September 2022) which had been provided to him as a pain reliever by the nurse of the Unit the day before the visit.

Also, the monitoring visit revealed in the first aid bags in the Unit many medicines with cut foil blister and pills without any foil blister, the expiration dates of which could not be monitored.

Other highly unacceptable practices are related to the recording of psychotropic medicines in the register on Quantitative Recording of Medicines and Other Supplies. The examining of the register revealed that there were deletions and penciled entries on the pages with records on psychotropic medicines, which may lead to abuse.

Such practices are unacceptable, considering that the register records psychotropic medicines included in the list of the narcotic drugs, psychotropic (psychoactive) substances and their precursors approved by the RA Government Decree No 1129-N of 21 August 2003.³³ Such an approach is not compliant with legislative requirements and gives rise to reasonable concerns.

Taking into account the foregoing, it is necessary to:

- ✓ *Exclude the availability at the Unit of any expired medicines and provision thereof to the persons deprived of liberty;*
- ✓ *Observe the storage conditions of medicines;*
- ✓ *Develop effective mechanisms for monitoring the expiration dates of the medicines available at the penitentiary institutions;*
- ✓ *Ensure proper medical record-keeping and recording of medicines.*

3. Initial medical checkup

The initial medical checkup of the detainees and convicts newly admitted to the Penitentiary Institution is carried out in a room separated by a glass partition in the quarantine unit. At the time of the monitoring visit, the room was sufficiently furnished but might be completely **observable at all times** from the corridor.

³³ RA Government Decree No 1129-N dated 21 August 2003 on Approving the Composition (List) of the Controlled Narcotic Drugs, Psychotropic (Psychoactive) Substances and their Precursors.

It should be highlighted once again that the medical checkup must be carried out only by the medical personnel and out of sight and hearing of the penitentiary staff.

It is essential that, if necessary, it is possible to conduct medical checkups within the sight of the penitentiary officers but it should be done in exceptional cases, at the doctor's request.

According to Clause 12 of the Annex to the RA Government Decree No 825-N of 26 May 2006, the medical checkup shall be carried out by the Unit doctors and according to Clause 13 thereof, *medical checkup shall be conducted out of hearing and unless otherwise requested by the doctor conducting the medical checkup, out of sight of the officers of the detention facilities, non-medical staff of the penitentiary institution or the officers responsible for the transportation of the detainee or convict.*

Despite the foregoing, practically, the opposite presumption is in place: the penitentiary officer, as a rule, constantly monitors the course of the initial medical checkup, by keeping it in his sight, which is impermissible.

Also, issues related to recording of the results of the initial medical checkup of the persons deprived of liberty have been identified.

The Unit keeps a register on Medical Checkup of Detainees and Convicts. The nurse or paramedic on duty is responsible for filling out and keeping the register.

On non-working days and hours, the initial checkup is conducted by the paramedic on duty.

In the case of identifying any injuries in a person deprived of liberty admitted to the penitentiary institution, such injuries are recorded by the secondary staff member on duty only in the medical card of the person deprived of liberty and in the respective register. Such person undergoes a medical checkup by the Unit doctor no sooner than on the next working day, and a respective template on

Conducting Medical Examinations and Recording Cases Related to Torture and Other Ill-Treatment /hereinafter referred to as the “Form”/ is filled out and submitted to the Prosecutor's Office. Such practices cause violation of the legislative requirement.

Hence, according to the register on Medical Checkup of Detainees and Convicts, the medical checkup of S.H., who was admitted to "Armavir" Penitentiary Institution on 21 August 2022, conducted at 5:10 pm revealed a number of bodily injuries, with regard to which the fill-out of the respective Template (a copy of the respective Template was examined) was initiated on the next day, on 22 August, at 5 pm and was completed on the same day, at 6:30 pm, and the Template was sent to the RA General Prosecutor's Office no sooner than on 23 August 2022, **in fact, 2 days later**. Thus, the identified injuries were reported to the law-enforcement authorities 24 hours after the identification thereof, whereas the law stipulates that the information about any suspected alleged torture or ill-treatment must be reported to the competent investigative authority immediately but no later than within 24 hours.

As a result, this caused non-compliance with the requirements of Clause 10 of the Decree 163-L of the RA Minister of Justice dated 21 April 2021³⁴ to the effect that *the record must be submitted to the competent investigative authority immediately but no later than within 24 hours after the cases prescribed in Clause 2 of this Annex, that is, when there is a written or verbal statement by the patient, or if the health provider has suspicions that the bodily injury or the patient's health complaint might be caused in consequence of torture or any other forms of ill-treatment.*

Also, the examination has revealed that the Template on the detected injuries is sent to the RA Prosecutor's Office with a delay of up to 1 month after identifying the injury.

³⁴ Decree No 163-L of the RA Minister of Justice dated 21 April 2021 on Approving the Template of the Medical Checkup for Torture and Other Forms of Ill-Treatment and the Guideline for Drawing up the Medical Checkup Record on Torture and Other Forms of Ill-Treatment

The reason for not making any respective records on the incurred injuries of the person deprived of liberty at admission to “Armavir” Penitentiary Institution and for not submitting it to the law-enforcement authorities was also considered the availability at his admission of a record on bodily injuries in his personal file filled out at the detention facilities. This fact may not serve as a basis in any way whatsoever for not drawing up by the medical personnel of the SNCO of a respective record and for not submitting it to the law-enforcement agencies.

Proper recording of the injuries of a person deprived of liberty at admission to the penitentiary institution is mandatory in any case, as such person is still held in custody even on his way to the penitentiary institution.

Thus, the legislative requirements are not observed, which does not contribute to the prevention of torture and ill-treatment of persons deprived of liberty and the proper investigation into the identified cases.

At the time of the monitoring visit, within 2022 a respective Template was filled out with regard to 13 persons on alleged ill-treatment, but the examination of the register on Medical Checkup of Detainees and Convicts showed that only in August 2022, 16 persons deprived of liberty were admitted to the Penitentiary Institution with injuries. There were no records on the causes of the injuries identified in some of the above-mentioned persons, which is worrisome and does not contribute to the objective of effective investigation of the cases of torture and ill-treatment. It is noteworthy that only 3 out of the 16 cases of injuries recorded in August 2022 were recorded in the Template, and in the other cases, even if it was documented that the injury was caused by a "fight" or an "injury sustained during apprehension", no respective Template was filled out.

It is noteworthy that a Template filled out between 5:33 pm and 4:40 pm (the end time might be incorrect) on 1 August 2022 concerned a person called G.H. who was admitted to the Penitentiary Institution on 31 July 2022 and underwent a medical checkup at 7 pm.

In fact, even in case of availability of visible injuries on the persons deprived of liberty, the Template is filled out selectively, which is impermissible.

It should be emphasized that at the time of the visit, the Unit was not equipped with sufficient technical devices, and at the initiative of the doctors, the photos of the injuries were printed at the photo-printing house which also causes additional difficulties in efficient performance of the medical personnel's working activity.

It remains a concern that the initial medical checkup of the persons deprived of liberty is still conducted only once, at the person's admission to a penitentiary institution. In other cases, when the person is transported to a court or somewhere else to participate in an investigative action and returns to the penitentiary institution, no medical checkup is conducted, and no relevant records are drawn up.

Taking into account the foregoing, it is necessary to:

- ✓ *Conduct external medical checkups of the persons deprived of liberty in any case of entering and exiting the penitentiary institution, in a place with adequate conditions specifically adapted for such purpose;*
- ✓ *Fill out the Templates on alleged torture and other forms of ill-treatment in the cases prescribed by law and in compliance with the respective procedure;*
- ✓ *Conduct monitoring and analysis to ensure filling-out of the Templates on alleged cases of torture and other forms of ill-treatment and to further comply with such procedures;*
- ✓ *Hold regular vocational training courses for medical personnel, including on proper recording of physical injuries.*

4. Issues related to management of hunger strike cases

At the time of the monitoring visit, 9 persons deprived of liberty were on hunger strike in "Armavir" Penitentiary Institution, 4 of whom were held in detention in the medical premises and 5 - in the penal cell premises.

The differentiated approach to the persons deprived of liberty raises concern. Particularly, while some of them were accommodated in well-lit and improved wards of the medical premises, the others were held in the damp and uncomfortable cells in the penal cell premises.

According to the hunger strikers held in the penal cell premises, they are placed in the cells with bad conditions to exert pressure on them, so that they stop the hunger strike, which is unacceptable.

The persons deprived of liberty went on a hunger strike due to the causes related to their placement in another penitentiary institution or another premises as well as interpersonal conflict relations and investigations into their criminal cases. The vast majority of persons deprived of liberty went on a hunger strike due to inadequate provision of medical services.

Despite the daily medical surveillance of the hunger strikers deprived of liberty, in case of urgent calls from the persons deprived of liberty held in the penal cell premises related to their health problems, the medical personnel responds after a long time.

Due to the issues related to the provision of medical care, one of the detained hunger strikers nailed his feet to the bed attached to the wall since early morning, but the medical personnel had not visited him in the afternoon yet.

It should be emphasized that at the time of the monitoring visit, there were no medical staff members on duty in the monitored premises, including in the penal cell premises, and the calls of the medical staff were transmitted verbally through the penitentiary officers on duty.

It is noteworthy that the examination of the register on Visits to the Persons Detained in the Penal Cell has revealed that the staff member on duty does not visit the persons detained there on a daily basis. Thus, despite the fact that there were persons deprived of liberty held in the penal cell premises at all times subject to the disciplinary sanction of transfer to the penal cell, according to the entries in the respective register, they were visited by the Head of the Social, Psychological and Legal Activity Division and/or an officer of the said Division. According to the above-mentioned register, the visits to the penal cell premises of the penitentiary institution were made once or several times a month, which contradicts the requirements of law.

With regard to the foregoing, it is noteworthy that Chapter 18.1 of the Annex to the RA Government Decree No 1543-N of 3 August 2006 defined the sanctions imposed on the detainees and convicts and the procedure for imposing them. And according to Clause 224 thereof, *the respective medical service officer and the responsible officer on duty shall every day visit the detainees or convicts held in the penal cell and make an entry in the respective register.*

Also, by decree of the Head of the Penitentiary Institution, several persons were also held in the penal cell premises for at least the past few consecutive months, who were not visited either by the Head of the Penitentiary Institution on a daily basis. However, according to Article 78(10) of the RA Penitentiary Code, *the convicts detained in isolation shall be visited every day by the head of the penitentiary institution as well as by the psychologist and the doctor of the medical unit located in the penitentiary institution.*

Moreover, the individual cards of the detained hunger strikers are kept in the office of the staff member on duty in the penal ward premises. Such cards were kept together with both the food intake and registration sheets of the persons deprived of liberty and the schedule of the daily mandatory dynamic monitoring by the medical personnel. Thus, the data with medical information are made available to the non-medical staff of the penitentiary institution.

Such practices are not compliant with ensuring medical confidentiality, which is unacceptable.

The office of the person responsible on duty is also equipped with weighing scale used for daily weighing of the persons on hunger strike. It is noteworthy that in case of long-term hunger strike and exhaustion of the body, organizing the weighing process outside the cell, that is, in the office of the person responsible, may cause additional difficulties for the person. For instance, at the time of the visit, a person deprived of liberty had been on hunger strike for a long time (13 days).

Therefore, it is necessary to:

- ✓ *Exclude any manifestations of a differentiated approach to the persons deprived of liberty, by providing similar conditions of detention for the persons on hunger strike;*
- ✓ *Exclude any practices of keeping the persons on hunger strike in the penal cell premises;*
- ✓ *Ensure the proper medical surveillance of the persons on hunger strike and particularly, access to medical care and medical confidentiality;*
- ✓ *Ensure the weighing of the persons deprived of liberty on hunger strike by using mobile scale.*

5. Conditions of detention

At the time of the visit, 926 persons deprived of liberty (603 detainees and 323 convicts) were held in detention at "Armavir" Penitentiary Institution. The monitoring in "Armavir" Penitentiary Institution primarily covered the 4th premises of the residential area, which has a 2-storey layout.

The monitoring identified that 141 persons deprived of liberty were held in 48 cells of the 4th premises of the penitentiary institution, and 63 of them were foreigners.

In each cell, up to 4 persons were held in detention. The conditions of detention in the monitored cells were not satisfactory. Particularly, the humidity level in the cells was high, and the plaster on the walls had fallen off and was broken and moldy here and there. The humidity in the cells was

mostly caused by the poor condition of the sanitary units. Due to the high level of humidity, the plaster on the walls and ceiling in the sanitary units had also fallen off. The same situation was also identified in the cells located on the 2nd floor of the premises.

The areas of the monitored cells were mostly 18 square meters (including a sanitary unit of 2 square meters) and they were equipped with furniture intended to hold in detention 4 persons deprived of liberty.

At the time of the monitoring visit, the issue of artificial ventilation of "Armavir" Penitentiary Institution has not been resolved yet, which is very worrisome. In many cases, the persons deprived of liberty try to acquire at their own expense electric fans to ensure an adequate temperature in the cell. At the time of the monitoring visit, up to 3 fans were installed in some cells. Moreover, to alleviate the heat in the cells, the food pass doors of the cells were also left open.

In their private interviews, the persons deprived of liberty stated that the bedding provided to them were of a poor quality and worn out before their expiration date. Also, reportedly, the mattresses are thin, and they have to use several mattresses at a time and often use the mattresses and bedding of the persons released from the penitentiary institution.

Also, the monitoring identified insects: moth, mosquitoes, flies, cockroaches, etc. in the cells, corridors and offices of the premises. In their private interviews to the Defender's representatives, the persons deprived of liberty reported that they also saw woodlice and lice in the cells.

At the end section of the premises, near the stairs, the garbage of the premises was collected and at the time of the visit, the above-mentioned section was in an unacceptable sanitary condition. In particular, the garbage was collected in open containers with flies and various insects.

The insufficient sanitary and hygienic condition in the penitentiary institution does not contribute to the proper provision of the right to health care of the persons deprived of liberty.

The persons deprived of liberty are provided with bathing in the cells, and according to the received information, they can bathe once a week, on Thursday. On hot summer days, most of the persons deprived of liberty have to bathe with the water heated in an electric kettle or under the sun's rays.

In this regard, the persons deprived of liberty raised their complaints and noted that they would like to have bath more often, at least twice a week, taking into account the hot weather in summer. The persons deprived of liberty have reported that bathing is provided on a specific day of the week and, for instance, if they are not able to take a bath on that day due to ill-health or attending a court hearing, they have no opportunity to take a bath on any other days, and they have to wait for a bath till the next Thursday.

With regard to this issue, according to Rule 19.4 of the European Prison Rules, *adequate opportunities should be created for every person deprived of his or her liberty to be able to take a shower 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*, and according to Rule 19.7, *special provision shall be made for the sanitary needs of women.*³⁵

The monitoring identified that laundry was mostly done in cells. Reportedly, the bedding and linen of the persons deprived of liberty are sometimes washed at the laundry room of the penitentiary institution, and they wash their clothes in the cells or pass it to their family members for washing.

³⁵ See: <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae>

In their private interviews to the Defender's representatives, some of the persons deprived of liberty expressed their concern that washing is done in the laundry room of the penitentiary institution in exchange for money or cigarettes.

Bathing and keeping personal hygiene are of essential importance to the persons deprived of liberty, including in terms of their physical and mental health and well-being. Taking into account the specifics of keeping hygiene in case of shared accommodations, it is extremely important to provide the persons deprived of liberty with proper conditions for bathing and keeping hygiene, by ensuring adequate facilities and possibility of taking bath more often.

Taking into account the foregoing, it is necessary to:

- ✓ *Provide the persons deprived of liberty with mattresses and other bedding of adequate quality;*
- ✓ *Carry out repair works in the cells;*
- ✓ *Install closed garbage containers in the premises and remove it more often;*
- ✓ *Take insecticidal measures in the penitentiary institution;*
- ✓ *Carry out proper repair works in the sanitary units of the cells to properly ensure bathing of the persons deprived of liberty;*
- ✓ *Initiate an amendment to the RA Government Decree No 1543-N dated 3 August 2006, by providing the persons deprived of liberty with a possibility of bathing at least twice a week, based on the necessity and specifics of keeping the general hygiene for the persons deprived of liberty and taking into account the weather conditions.*

6. Penal cell premises

At the time of the monitoring visit, 8 persons were held in the penal cell premises of the penitentiary institution as a disciplinary sanction. Apart from the above-mentioned persons, 5 persons who were

on a hunger strike and 18 persons newly admitted to the penitentiary institution were held in detention in quarantine.

The penal cell premises were in a deplorable condition. The walls of the corridor and all the cells in the premises, including in their sanitary units were damp, moldy, and the plaster had fallen off. There was an urgent need for repair works there.

Also, inadequate sanitary and hygienic conditions were identified in the bathroom of the penal cell premises, where there were 5 bath cabins. The showers in the bathroom were removed, and the walls in the bath cabins were covered with rust. The bathroom had neither natural, nor artificial lighting; no lamps were installed there. Also, the bathroom had no ventilation system. According to the penitentiary officers, the lack of lamps was due to the high level of humidity in the bathroom because of which the lamps burn out regularly.

At the time of the monitoring, there were a total of 8 rolled mattresses on the floor and on the bench under the cover in the park, which were reportedly taken out of the penal cells. Some mattresses were also stored in a separated area at the back of the premises. In fact, the mattresses of the 8 persons held in the penal cells were kept in the park without ensuring adequate storage conditions. It should be emphasized that there were insects everywhere in the penitentiary institution and particularly in the penal cell premises.

The monitoring visit revealed that at least 2 of the convicts, G.R. and H.Kh., who were subjected to disciplinary sanction in the form of transfer to the penal cell, were held in the penal cell for 50 days and 6 months, respectively.

The examination of the register of Records on Convicts (Detainees) Transferred to Penal Cells revealed that based on his refusal to go to the cell assigned to him, convict G.R. was transferred to the penal cell on 22 August 2022, at 5:15 pm for a term of 15 days, and before that, a disciplinary

sanction was imposed on him again in the form of transfer to the penal cell on 4 August 2022, at 5:30 pm for a term of 12 days. Taking into account the aforesaid, the term of the disciplinary sanction against G.R. ended on 16 August 2022 at 5:30 pm, and the person was taken out of the said penal cell, which is recorded in the above-mentioned register. However, the person was not actually taken out of the penal cell and was held in detention there continuously and still continued to be kept in the penal cell for 6 days without a respective decision. G.R. was also held in the penal cell without any sufficient grounds from 23 July 2022 to 4 August 2022 (12 days) as well as from 6 July 2022 to 13 July 2022 (7 days) and from 19 June 2022 to 29 June 2022 (10 days). The same situation was also identified in case of the person deprived of his liberty H.Kh., who was held in a penal cell without any respective decision of the penitentiary institution continuously, from 22 July 2022 to 26 July 2022 (3 days), as well as from 7 July 2022 to 12 July 2022 (5 days) and 23 June 2022 to 27 June 2022 (4 days).

It should be highlighted that Article 107(8) of the RA Penitentiary Code stipulates that a convict may be kept in a penal cell for no more than twenty consecutive days. **Thus, the above-mentioned practices are highly problematic and are subject to immediate exclusion.**

Based on the foregoing, it is necessary to:

- ✓ *Carry out urgent repair and cleaning works in the penal cell premises of "Armavir" Penitentiary Institution;*
- ✓ *Provide adequate storage conditions for the mattresses of the persons deprived of liberty in the penal cell premises;*
- ✓ *Exclude any practices of holding in detention the persons deprived of liberty in penal cells and in solitary confinement for a term exceeding twenty consecutive days.*

7. Issues related to provision of food and drinking water

The monitoring visit of the National Preventive Mechanism identified that the food preparation services for the needs of the penitentiary institution were delegated to a private organization and the food is prepared on the territory of the penitentiary institution.

In their private interviews to the representatives of the Human Rights Defender, the persons deprived of liberty expressed their discontent with the taste, quality, appearance, quantity and variety of the food provided in the penitentiary institution. They mentioned that the food was sometimes not tasty. They expressed their discontent with the quality of some foods (e.g.: bread, rice, yogurt, juice, compote, meat products). Also, a significant number of the detainees and convicts held in the penitentiary institution expressed their discontent with the small portion of meat products and noted that the meat was sometimes served half-cooked or over-fried (burnt). The persons deprived of liberty mentioned that they often had to process and further cook the served food.

They informed the representatives of the National Preventive Mechanism that they preferred taking the food delivered for them in parcels by their family members.

It is of great concern that the penitentiary institution conducts no control over the quality, energetic value and sanitary storage conditions of food.

Hence, the lack of proper control mechanisms for ready-made food admitted in penitentiary institutions and legal regulation thereof may lead to various violations, including related to the quality and energetic value of the food and sanitary and hygienic conditions of its transportation and storage.

According to the information provided by the administration, the food distribution is carried out by the convicts involved in the technical maintenance works of the penitentiary institution.

During the monitoring, the detainees and convicts have also raised issues related to the inadequate state of the drinking water in the penitentiary institution, by noting that underground artesian waters are used as drinking water, which causes various problems related to the gastrointestinal system.

Hence, it is necessary to:

- ✓ *Take steps to introduce monitoring mechanisms and legislative regulations as to safety of the food provided by a private company to the persons deprived of liberty and observance of the minimum daily rations prescribed by Annex 1 to the RA Government Decree No 1182-N of 10 October 2015;*
- ✓ *Provide the persons deprived of liberty with drinking water of adequate quality.*

8. Walk and occupation

Parks were intended to ensure the walks of the persons deprived of liberty in every premises of "Armavir" Penitentiary Institution. Such parks were equipped with a bench, a trash can and shelters for bad weather conditions.

Despite the availability in the monitored park in the 4th premises of workout equipment and devices, they were rusty and worn out, and some of them were unfit for use.

The private interviews with the persons deprived of liberty revealed that oftentimes, they do not exercise their right to walk, and if they exercise that right, they spend only 15-30 minutes in the park as during the 1 hour allocated to them for walks, they also have to manage to make their phone calls.

In this regard, it is noteworthy that the right to rest, including to outdoor walks, is guaranteed by both domestic and international instruments.

The importance of providing the persons deprived of liberty with a possibility for workout /exercises during the walks is also mentioned in the European Prison Rules. Rules 27.3 and 27.4 of the said document provide that *properly organized activities to promote physical fitness and provide for adequate exercise and recreational opportunities shall form an integral part of prison regimes, and prison authorities shall facilitate such activities by providing appropriate installations and equipment.*

Hence, according to Rule 23 of the Nelson Mandela Rules, *every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily.*

Taking into account the foregoing, it is necessary to:

- ✓ *Equip the walk areas in the penitentiary institution with the necessary accessories to do exercises/workout, play games and do sports;*
- ✓ *Organize the service in the 4th premises of "Armavir" Penitentiary Institution in such a way that makes it possible to provide for at least 1-hour walk for the persons deprived of liberty.*

9. Communication with the outside world

The Human Rights Defender has repeatedly voiced the importance of maintaining communication with the outside world by the persons deprived of liberty. Communication with family has a positive effect on them, which is also essential for their re-socialization and maintenance of social ties.

The issues examined during the monitoring visit covered the poor condition of the road sections adjacent to "Armavir" Penitentiary Institution and the public transport service.

It was revealed that despite the stable passenger flow (the number of staff members going to work on a daily basis exceeded 200, the number of visits with family members was at least 40 and the

number of parcels passed for the detainees and convicts was 100) in that area, there was no public transport there at all. The lack of public transport causes a number of social and other issues and inconveniences for the persons visiting the penitentiary institution and directly for the staff.

With regard to this issue, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has noted that when a prison is constructed a distance away from all means of public transport, the Prisons and Probation Service should take responsibility for providing affordable transport to the prison on a regular basis (See: the CPT Report on its Visit to Denmark from 11 to 20 February 2008, Para. 63).

Such international position is based on the concept of the positive obligation of the State.

Another issue is related to the poor condition of and potholes in certain parts of the road section leading from the main road to "Armavir" Penitentiary Institution, which cause great difficulties for the movement of vehicles.

The monitoring visit has revealed that there are no adequately furnished waiting rooms for the visitors, including for children accompanying them, to the persons deprived of liberty held at "Armavir" Penitentiary Institution. For that reason, before entering the territory of the Penitentiary Institution, the visitors have to wait at the checkpoint where there is no waiting room and there are no benches and no covers from the sun and bad weather.

Problems related to the furnishing of the waiting room in the administrative premises of the Penitentiary Institution were identified. Despite the availability of a large waiting room, visitors, including children, had to wait at the entrance to the Penitentiary Institution, sitting on the front steps. The waiting room was equipped with a sanitary unit which was found in an unacceptable sanitary condition.

According to the information provided by the administration, the waiting room intended for the visitors to the persons deprived of liberty held at the Penitentiary Institution, was for some time equipped with adequate furniture, particularly sofas and armchairs, but due to the visitors' bad-faith treatment of the furniture, they had to remove it from the waiting room.

However, it should be noted that the bad-faith treatment of furniture by some of the visitors may not justify the total absence of a furnished area for visitors.

Therefore, for this purpose, separate properly furnished waiting-rooms should be intended for visitors at the entrance of the penitentiary institution, near the checkpoint and in the premises.

The matters examined during the visit also covered issues related to holding visits to the persons deprived of liberty.

Thus, "Armavir" Penitentiary Institution has 1 room for short visits, equipped with 7 tables with fixed benches. The sanitary unit located in the room was in poor sanitary condition.

During the visit, several short-term visits were held at a time in the room for short-term visits, but the persons were not provided with the conditions necessary for private talks during such visits.

The Penitentiary Institution has 11 rooms for long-term visits. The rooms were renovated but both the rooms and their sanitary units were in need of general cleaning.

At the time of the monitoring visit, a convict was in the room for long-term visits with his wife and a young child. Reportedly, due to the lack of a baby bed, their 3-year-old child slept with parents in a double bed. Another room for long-term visits was equipped with a baby bed; so, in this case, it was not clear why the long-term visit of the above-mentioned persons was held in a room not equipped with a baby bed, where the necessary conditions for the child's sleep were not ensured.

Hence, the purposeful distribution of the rooms for long-term visits should be ensured based on the age specifics and other primary needs of the visitors.

The premises intended for long-term visits had a separate children's room for the children who came for long-term visits. The room was not sufficiently furnished. It was untidy, and the furniture (cabinets, chairs, table) were arranged irregularly. Also, the room was not equipped with the necessary accessories and toys for children of different age groups.

There was also a park for children who came for long-term visit. The park was separated with high walls which had bars in the upper part. The park was equipped with a children's table, chair, swing, ball and soft toys.

Inadequate equipment of the children's room and park raises concern as it does not provide an environment meeting their needs.

In the monitored rooms for long-term visits not used by the persons deprived of liberty at the time of the visit, the water taps were found to be open. Hence, **respective steps should be taken to exclude unnecessary waste of water in the rooms for long-term visits.**

Reportedly, the premises for long-term visits are maintained by the convict involved in unpaid technical and maintenance work of the penitentiary institution from 9 am to 5 pm.

The private interviews with the representatives of the administration of the Penitentiary Institution have revealed that video calls are made with the help of the officer of the Social, Psychological and Legal Activity Division.

The room intended for video calls lacked windows and ventilation system, which is problematic.

Entries on attempted and completed video calls are made in the register on Recording Video Calls at RA MoJ (Ministry of Justice) "Armavir" Penitentiary Institution. The examination of the Register showed that a total of 68 video calls had been made from 1 June 2022 to the visit date and the last video call had been made on 2 September 2022. Reportedly, video calls are made via WhatsApp, Viber and Skype apps. At the time of the visit, due to technical problems with Viber, video calls could be made only via WhatsApp and Skype.

Taking into account the foregoing, it is necessary to:

- ✓ *Take steps to improve the road sections adjacent to "Armavir" Penitentiary Institution as well as to ensure public transport service;*
- ✓ *Provide separate properly furnished waiting-rooms for visitors at the entrance of the penitentiary institution, near the checkpoint and in the premises;*
- ✓ *Provide the visitors with access to private talks in case of holding several short-term visits at a time;*
- ✓ *Carry out cleaning works in the rooms for long-term visits, including in their sanitary units;*
- ✓ *Ensure targeted distribution of the rooms for long-term visits based on the age specifics and other primary needs of the visitors;*
- ✓ *Exclude any unnecessary waste of water in the rooms for long-term visits;*
- ✓ *Equip the children's room and park for the children who have come for a long-term visit with necessary toys and accessories for children of different age groups;*
- ✓ *Provide the persons deprived of liberty with a properly ventilated room for video calls.*

10. Social, psychological and legal activities: re-socialization of persons deprived of liberty

In "Armavir" Penitentiary Institution, 3 psychologists are employed, 1 of whom was on leave at the time of the visit but actually was at work. The social worker of the Institution had professional qualification of a lawyer.

The Penitentiary Institution had no offices for the psychologists, which is a factor that hinders their working activities and causes a number of problems. Reportedly, each section of the premises has offices for conducting the working activities of the social, psychological and legal division and the psychologists there.

According to the information obtained during the monitoring visit, psychological activities with the persons deprived of liberty are carried out by principle of priority and necessity and therefore, such activities are not clearly regulated.

Reportedly, the most "complex" cases are managed by male psychologists at the Penitentiary Institution and the cases considered the most "safe" ones - by female psychologist. **This approach is problematic: the psychologist should communicate with the persons deprived of liberty based on their professional qualities and skills rather than gender-related features.**

It is noteworthy that at the time of the visit, there were 926 persons deprived of liberty held at the Penitentiary Institution, whereas the working activities by 3 psychologists do not make it practically possible to provide quality psychological services to the convicts and detainees. With this regard, it should be noted that adequate provision of psychological services contributes to the regulation of the person's mental state as well as improvement in their adaptation processes and interpersonal relationships and re-socialization.

Hence, the number of psychologists in the Penitentiary Institution is highly insufficient and needs immediate revision.

The Penitentiary Institution has no diagnostic methodological package for the persons deprived of liberty. According to the information provided by an Institution psychologist, A. Bass and A. Darki methods for diagnosing indicators and forms of aggression and A. Asinger's method for diagnosing aggression were applied as necessary. The individual cards of the persons deprived of liberty had a section on *Psychological Characteristics of the Convict*, where entries should be made on the person's emotional state, adaptability, interpersonal relationships, personal qualities, temperament, intellectual level and other psychological characteristics. It is very worrisome that this section was simply left blank in the monitored individual cards of a number of persons. For instance, according to the entries in the individual card of a person deprived of liberty V.H., he is characterized by a choleric temperament, and his intellectual level is below average. Thus, it turns out that the entries made in V.H.'s individual card on the person's temperament and intellectual level have no scientific reasoning, and the specialist filled out the respective sections of the individual card based on their own subjective opinion. The use of science-based methods helps the psychologist to get as quickly as possible substantiated information on the person, which serves as a basis for planning their further activities with the person.

Hence, it is necessary to develop and apply a diagnostic package for the activities with the persons deprived of liberty, which will not only aim to diagnose a person's aggressiveness level but will also include personal questionnaires, as well methodologies aimed at revealing their ability to adapt to the environment and interpersonal relationships and at assessing their intellectual level.

The psychologists make entries on their completed activities in the register on Records of Individual Sessions with Detainees and Convicts. The examination of the Register No 162 (202110) revealed that a total of 78 sessions were conducted between 1 June and 28 August 2022. The Register contained similar information on the sessions; particularly, the following entry is made in *Brief Outline of the Taken Measures section*: "*The prescribed procedure has been explained.*" The examination of the Register No 131 (2022) showed that a total of 3 sessions were conducted on 2 September 2022 and the entry thereon is also of similar content: "*The prescribed procedure has been*

explained." According to the entries in the Register No 163, a total of 139 sessions were held between 1 June and 19 August 2022. The *Brief Outline of the Taken Measures* section of the said Register has similar entries as well; particularly, they read as follows: "*Psychological consultation*", "*Psychological conversation*", "*Explanatory and psychological activity*", "*Psychological activity in cognitive and behavioral aspect*" and similar entries, which, however, have no descriptive information about the performed activities. The examination of the Register No 137 showed that a total of 184 sessions were carried out between 1 June and 19 August 2022, and the *Brief Outline of the Taken Measures* section also has information of similar content, particularly: "*counseling*", "*psychological conversation*".

Hence, the entries on the activities by the psychologists do not contain any description by a narrow specialist of the course of such activities as well as any information on the applied techniques, methods, methodologies and their outcomes or any obstacles to performance of such activities as well as on the subsequent course and outcomes of the planned activities.

The psychologists of the Penitentiary Institution stated that they spent a significant part of their working day on ensuring document flow, which prevented them from conducting their essential professional activities.

During the monitoring visit, the individual cards of the persons deprived of liberty were examined. It is noteworthy that it took a long time for the penitentiary officers to present such individual cards to the Defender's representatives, and E.H's individual card was not provided at all during the visit. The location and arrangement of the documents required during the working activities should be ensured in a way that the staff members do not need any additional efforts and time to find such documents and make entries. The individual cards of the persons deprived of liberty are the documents that are to be available on every working day to make entries on the activities taken during the day.

The examination of the entries in the individual cards of the persons deprived of liberty shows that the entries are not duly made, which is problematic in terms of the dynamic monitoring of the activities conducted with the persons deprived of liberty, the current issues, fulfillment of the planned activities and their outcomes and current difficulties. Particularly, the most recent entry in the Section on *Notes on Individual Sessions and Completed Activities* in the individual card of A.G. detained on 5 May 2020 was made on 27 December 2021. Hence, either no individual sessions and activities were conducted with the person in 2022, or no respective entries were made on the completed activities. The most recent entry in the same Section in the individual card of S.F. detained on 30 April 2022 dates back to 2 May 2022. The other sections in the above-mentioned 2 individual cards were not filled out at all. The most recent entry in the Section on *Notes on Individual Sessions and Completed Activities* in the individual card of V.H. detained on 6 November 2018 was made on 17 March 2021. The part on *Schedule of the Planned Activities* in the Section on *Plan for Convict's Improvement Process* in the said person's individual card has the entries below: "25 December 2020" and "26 August 2022", in the Section on the Nature of the Planned Activities /activities related to family and community, education, specialization, work, reduction of negative tendencies, behavior and other issues/": "Carry out activities to ensure refraining from negative tendencies". The Section on the Actions and/or Measures Planned to be Conducted with the Convict had the entries below: "Carry out activity in psychological counseling and cognitive and behavioral aspect". And the Section on the Result of the Performed Activities had absolutely no entries. According to the entries in the Section on *Sanctions*, between 28 December 2018 and 1 October 2020, 9 sanctions were imposed on V.H.; the most common sanction was transfer to the penal cell. According to the information available in the register on *Recording Detainees and Convicts with Negative Tendencies*, on 26 March 2019, V.H. was registered as a person with a tendency to self-harm and was de-registered on 28 March 2021. Also, since 26 March 2019, the same person has been registered as a person with a tendency to aggressiveness and conflict and since 12 March 2020 - as a person with a tendency to flee. After V.H. was registered as a person with a tendency to self-harm, aggressiveness and conflict, activities were carried out with him on 2, 3, 10, 11 and 26 April 2019. His individual card contained an entry on such activities to the effect that explanatory and consulting

activities were conducted with V.H. to develop positive behavior, reduce negative tendencies and “*relieve the emotional background*”, the requirements of the internal regulation were explained to him. According to the entry made on 26 April 2019, the completed activities did not give satisfactory results. The examination of V.H.'s personal file has shown that on 2 June 2020 and on 2 August 2022, physical force was used toward him by fixing his hands behind his back and twisting his hands, respectively. V.H.'s individual card contains no information on the use of physical force, which is problematic. Also, the examination of his personal file has revealed that V.H. committed a number of self-harm and self-injury /self-mutilations (on 9 February 2020, he committed a self-injury with a disposable razor blade in the right part of his abdomen; on 20 May 2020 he committed a self-injury with a disposable razor blade in the area of his left calf; on 3 and 19 June 2020, he sewed his mouth; on 25 June, he made multiple cuts on the abdomen and left forearm; on 22 August 2022, he committed a self-injury by sewing his lips and on the next day, he also committed self-injury by sewing the eyelids of his right and left eyes). V.H.'s individual card contained no information on the self-harm and self-injuries he had committed and no entries on any psychological activities carried out with him after the above-mentioned self-harm and self-injuries. It is noteworthy that according to an entry in the statement dated 7 July 2020 available in V.H.'s personal file: "... was diagnosed with "Organic personality disorder", is under constant psychiatric surveillance, currently continues to get the respective prescribed psychotropic medicine". It is noteworthy that there were no entries in his personal card on psychiatric surveillance, treatment and its results or any other similar issues.

Hence, the entries made by the specialists are typical and formal/nominal in nature, and the documents on the persons deprived of liberty lack complete and substantive description of the completed activities. The practices of making proper entries on the completed or planned activities might contribute to more flexible and targeted performance of further activities with the person deprived of liberty.

The private interviews with the Defender's representatives also revealed that the psychologists carry out psychological activities with the convicts' family members as well. However, the verbal

description of such activities makes it obvious that they are of non-professional nature. In particular, there are no clearly defined mechanisms for performing such activities; during their activities, the psychologist shows an evaluative attitude towards the situation created in the course of such activities, gives advice and points out the ways to effective solution of the problems in the relationship. No respective entries on the psychological activities conducted by the psychologist with the convicts' family members were found.

Reportedly, psychologists hold professional discussions with psychiatrists, mostly by phone calls or meetings in the course of their working activities. It is noteworthy that there are no entries on any professional discussions in the person's individual card or any other document.

Hence, no concerted team work of the psychologist, psychiatrist, social worker and lawyer is ensured, and there are no uniform mechanisms for recording and monitoring such work. The lack of regular interdisciplinary cooperation hinders the efficiency of the activities carried out with persons deprived of liberty and the competent planning of further activities.

With regard to the issue of psychological activities with the foreigners in the penitentiary institution, it is noteworthy that according to the psychologist of the penitentiary institution, he provides psychological services to the foreigners and has no difficulties with communicating in foreign languages (English, Russian). However, according to the information provided by the persons deprived of liberty, the psychological activities carried out with the foreigners in the penitentiary institution are not of a professional nature and mostly concern drafting of applications and complaints.

Also, the monitoring visit has revealed that the psychologists employed by the Penitentiary Institution do not participate in any supervision activities, which is a key component of the professional activity of support specialists. Another problematic issue is engagement in work activities in the penitentiary institution during one's leave as leave ranges among the key

components ensuring the efficiency of a specialist, and working without any leaves may lead to physical and emotional exhaustion. Also, taking into account the specifics of the psychologists' occupational environment, workload and working without rest, the emotional burnout syndrome among such specialists is inevitable, which can harm both the specialists and the visitors.

According to the provided information, the psychologists employed by the Penitentiary Institution regularly participate in various trainings on work activities of psychologists. The psychologists have highly appreciated the effectiveness of such trainings.

Taking into account the foregoing, it is necessary to:

- ✓ *Review the number of the psychologists employed at the penitentiary institution;*
- ✓ *Develop procedures regulating the working activities of psychologists;*
- ✓ *Exclude psychologist's engagement in their working activities during their leave;*
- ✓ *Develop and apply a diagnostic package, which will not only aim to diagnose a person's aggressiveness level but will also include personal questionnaires as well methodologies aimed at revealing their ability to adapt to the environment and interpersonal relationships and assessing their intellectual level;*
- ✓ *Ensure proper and meaningful practices of filling out by the specialists of the current documents and performance of the psychological working activities with convicts and detainees;*
- ✓ *Develop practices of interdisciplinary cooperation and develop a system of forms for such cooperation.*

11. Negative tendencies

Clause 45 of the Annex 1 to the Decree No 279-N of the RA Minister of Justice dated 13 July 2016 stipulates that *the detainees and convicts with a negative tendency /inclination/ shall be deemed to be the detainees and convicts who have a behavioral and personal tendency to violate the internal*

regulations of the institution or to cause harm to their own life and health or to those of other persons and the convicts who have criminal positions. Also, Clause 46 of the afore-mentioned Decree prescribes the procedure for registering and deregistering a detainee and a convict as a person with negative tendencies. Accordingly, a detainee and a convict shall be registered and deregistered as a person with negative tendencies by the decree of the head of the institution, based on the information or opinions provided by the security, social, psychological and legal, medical service and intelligence /rapid-response units of the institution.

The analysis of the above-mentioned legislative wording makes it possible to conclude that it does not meet the requirement of legal certainty and may give rise to divergent interpretations and practically lead to a differentiated approach.

Another problematic issue is related to the regulations for registering and deregistering a convict or a detainee as a person with negative tendencies. Practically, the process of registration and especially deregistration of a person based on having negative tendencies is not foreseeable and certain for the persons deprived of liberty, which increases the risk of arbitrariness.

An individual improvement plan is prescribed in the detainee's and convict's individual card, which, among other information, must have notes on the convict's psychological characteristics (Part VI of the individual card), emotional state, adaptability, interpersonal relations, personal qualities, temperament and intellectual level. Also, the motivations for negative behavior, the motivating factor for criminal behavior, the risk of re-offending/recidivism, negative tendencies, social needs and opportunities should be evaluated. The collection of similar in-depth psychological information entails a multilateral and professional psycho-diagnostic process by using psychological research methodology: in-depth interview, structured observation, testing (questionnaire), etc.

However, such activities are generally not carried out in practice: the entries in the individual cards were mostly formal/nominal in nature; they were general and did not contain any detailed description of the plan of multilateral and professional psycho-diagnostic activities.

The examination of the register on Recording Detainees and Convicts with Negative Tendencies has identified that the column entitled *Brief Outline of the Activities Aimed to Reduce Tendencies* mostly have records on information of a general nature, without detailing a clear description of the activities taken to reduce any tendencies. In particular, according to the entries available in the register, a total of 10 persons deprived of liberty were monitored for tendencies to aggressiveness and conflict. The entries on 5 of them made in the *Brief Outline of the Activities Aimed to Reduce Tendencies* column contained similar information and particularly, entries on taking actions to reduce their aggressiveness and improve their conflict behavior and to identify the motivating factors of the aggressive and conflict behavior in the cognitive and behavioral aspect.

Out of the 23 persons monitored for criminal tendencies, the *Brief Outline of the Activities Aimed to Reduce Tendencies* column was filled out only in front of the names of 2 of them, and the entries were again similar. With regard to 3 persons, only their personal data were mentioned: first name, last name, patronymic; even the date of their registration was missing, and other information on those persons was missing as well. Also, similar entries and omissions were found in the entries made for the other tendencies.

The private interviews with the administration of the penitentiary institution during the monitoring visit have showed that a person is recorded as a person with negative tendencies due to his negative behavior or the rapid-response/intelligence data obtained thereon and is deregistered if he no longer manifests such behavior

Hence, the respective specialists do not make any initial or ongoing evaluation to identify the negative tendencies of a person, do not develop any plan and procedure for the activities to prevent negative tendencies and do not make an ongoing and final assessment of the implemented activities.

Referring to the application of the self-harm and suicide screening tool in the penitentiary institutions, it should be noted that it is applied by the responsible security officer on duty who is responsible for the process of admitting a person deprived of liberty to the penitentiary institution. The in-depth risk assessment tool is applied by the psychologist. In the absence of a psychologist (if the position is vacant), the tool should be applied by the adequately trained social worker. Also, it is noteworthy that unlike the screening tool, in case whereof the evaluator concludes on the risk level from low to very high based on the number of "YES" answers and the respective scores, the risk assessment template relies on the expert's professional judgment as to the risk that the inmate might commit suicide or self-harm.

In their interviews on self-harm and suicide screening and risk assessment tools, the personnel of the Penitentiary Institution said that they did not consider the application of the tools expedient and considered such application as a waste of time. Obviously, both the responsible security officers on duty, and the psychologists had difficulty using the tools, even though they had attended the necessary training courses to use such tools.

In his private interview to the Defender's representatives, the psychologist of the penitentiary institution noted that before the introduction of the self-harm and suicide risk assessment tool, they used to assess the risk of self-harm and suicide among the convicts and detainees and currently, the application of such tools is formal/nominal in nature and is a waste of existing resources which, in its turn, requires filling out further documents.

Summing up the foregoing and based on the importance of solving the current problems, it is necessary to:

- ✓ *Review the procedure for registering and deregistering a detainee and a convict as a person with negative tendencies based on the decisions of the heads of penitentiary institutions;*
- ✓ *Define the concept of "negative tendency" and consider the reasoning for classifying certain types of tendencies (aggressiveness and conflict) among negative tendencies, taking into account the person's individual risk factor;*
- ✓ *Carry out activities with the persons with negative tendencies to reduce such tendencies and duly record such activities in the respective documents;*
- ✓ *Hold regular training course for the penitentiary staff on self-harm and suicide screening and risk assessment tools by highlighting their importance.*

12. Education and occupation

According to the provided information, in "Armavir" Penitentiary Institution, the right to education of persons deprived of liberty covers primary vocational, secondary vocational and higher education and will cover in the near future general education as well. To ensure more effectively the right to education of the persons deprived of liberty, "Armavir" Penitentiary Institution also provides a number of educational programs and courses.

The monitoring visit has identified the plans to provide in "Armavir" Penitentiary Institution secondary education for the persons deprived of liberty, which is welcome.

To this end, classrooms were built in "Armavir" Penitentiary Institution. As of the time of the visit, those rooms were not furnished yet. According to the information provided by the administration, the classrooms will be used soon.

The steps aimed at provision of the general education to the persons deprived of liberty are welcome; it contributes to the proper exercise of their right to education. Also, such efforts are essential for their re-socialization.

Reportedly, as of September 2022, 5 persons deprived of liberty received higher education in the Penitentiary Institution, and at the time of the visit, the number of persons receiving higher education was 3. According to the received information, as of the time of the visit, 1 person was also admitted to a higher education institution and his name would be shortly after included in the list of the persons deprived of liberty who received higher education.

At "Armavir" Penitentiary Institution, higher education courses are held online on a daily basis.

Also, the monitoring visit to "Armavir" Penitentiary Institution identified issues related to provision of higher education. In particular, the lack of classrooms to provide higher education and the availability and effectiveness of the existing options are problematic.

Thus, "Armavir" Penitentiary Institution has no separate rooms to ensure the higher education of the persons deprived of liberty. In the Penitentiary Institution, the higher education is provided for the persons deprived of liberty in a room designated for remote online video communication, which has access to the Internet and is equipped with 3 personal computers to ensure the training activities.

However, it is not acceptable that such training courses are held in the room designated for video communication. The matter is that if the personal computers for video communication are used by a person deprived of liberty to contact his family, another person deprived of liberty either does not use or uses with limitations the opportunity to join an online training course through video communication.

Therefore, to provide the persons deprived of liberty with higher education in a separate room; appropriate rooms should be designated for that purpose in "Armavir" Penitentiary Institution.

In their private interviews, the persons deprived of liberty expressed their positive attitude and wish to get higher education, which is welcome.

According to the information provided by the administration, the number of persons who wish to get higher education in "Armavir" Penitentiary Institution is high, but the tuition fees pose an obstacle.

According to the information provided by the administration, the Penitentiary Institution is collaborating with various organizations, including those engaged in educational activities, to ensure the full or even partial compensation of the tuition fees of the persons deprived of liberty but has not made any progress so far. Therefore, even despite their wish, it appears impossible to provide access to higher education to a large number of convicts in the Penitentiary Institutions.

The examination of the register on Recording Cultural, Sporting, Educational and Other Activity and the Convicts Engaged in Creative Activity showed that as of the time of the visit, no professional and educational programs or training courses had been conducted in 2022 for the persons held at the Penitentiary Institution, and the completed/ongoing activities were mostly recreational in nature. Moreover, such activities were quite scarce in number.

According to the information provided by the administration, in 2021, Instigate Robotics CJSC held a training course in "Armavir" Penitentiary Institution on obtaining modern IT knowledge and receiving a civil profession. 35 persons joined the training course. However, the training course lasted 2 months and was not completed.

In this regard, it is noteworthy that the continuous provision of educational programs and the resulting capacity building campaigns are directly proportional to ensuring the exercise of the right to education of a person deprived of liberty and is of a key importance for their re-socialization and social reintegration.

Therefore, the complete lack of any educational and professional programs and training courses at "Armavir" Penitentiary Institution as well as the non-completion of the implemented educational programs and lack of an express frequency and continuity of such programs raise concerns. In this regard, effective and comprehensive approaches should be developed to properly ensure access to education for all the persons deprived of liberty.

At the time of the monitoring visit to the Penitentiary Institution, 59 convicts were involved in various working activities carried out at the Institution, 16 of them were engaged with technical and maintenance works, 15 - with sanitary and hygienic works, and 28 – with unpaid works.

Reportedly, most of the positions for the convicts in technical and maintenance work at the Penitentiary Institution are vacant, which is very worrisome. In this regard, relevant measures should be taken to fill the above-mentioned vacancies to the possible extent.

Reportedly, 50-60 persons deprived of liberty join the creative activities at the Penitentiary Institution yearly. The examination of the respective registers has shown that 63 persons deprived of liberty were involved in creative activities in 2022.

In terms of ensuring the occupation of the persons deprived of liberty, the availability of a library and literature is also essential. The monitoring visit to "Armavir" Penitentiary Institution also covered the library and the literature. The library at the Penitentiary Institution was stocked with both legal, and fiction, and religious literature.

According to the information provided by the administration, a responsible staff member is employed at the library and compiles a list based on the available books. As the persons deprived of liberty are held at "Armavir" Penitentiary Institution in a closed regime area, they may not access the library and take books on their own. For that reason, there is no separate reading-room for them.

If they wish, persons deprived of liberty turn to the respective officer who delivers to them the books of their choice.

The information provided by the administration show that the persons deprived of liberty generally prefer and use electronic literature, which is welcome.

Taking into account the greater interest in using electronic literature among the persons deprived of liberty, measures should be taken to equip the penitentiary institution with electronic literature and educational materials as well. This will significantly contribute to higher interest among the persons deprived of liberty in useful occupation.

In their interviews to the representatives of the National Preventive Mechanism, the members of the administration of the Penitentiary Institution have stated that the Penitentiary Institution holds regular sporting events (chess, table tennis and other competitions) each time involving the persons deprived of liberty. This was also confirmed by the persons deprived of liberty.

Also, the members of the administration of the Penitentiary Institution have noted that the Penitentiary Institution holds regular cultural events. This was also confirmed by the persons deprived of liberty, by stating that they mostly took part in such events to get a point in line with the standards for evaluating the information covered in the statement on the convict's personal file and the factual description of their behavior.

According to another observation, the persons deprived of liberty stated that the detainees did not want to take part in cultural and sporting events held in the penitentiary institution as only the convicts earned points for taking part in such events, which might later play a big role in their release on parole.

Hence, the cultural and sporting events held at the penitentiary institution constitute an essential component in terms of the person's re-socialization and improvement of their behavior and should not be constrained to the possibility of earning points but should be rather encouraged by all possible means.

Therefore, it is necessary to:

- ✓ *Designate appropriate rooms in "Armavir" Penitentiary Institution to provide higher education to the persons deprived of liberty;*
- ✓ *Provide the persons deprived of liberty with proper exercise of their right to education and particularly, hold regular and targeted educational programs and vocational training courses at the penitentiary institutions;*
- ✓ *Continuously promote involvement of the persons deprived of liberty in educational programs by expanding the diversity of such programs;*
- ✓ *Consider the possibility of resuming the training course by Instigate Robotics CJSC to obtain modern IT knowledge and receive a civil profession or of replacing it with another similar project;*
- ✓ *Taking into account the interest in electronic literature among the persons deprived of liberty, create an Electronic Library and replenish it with the necessary literature;*
- ✓ *Develop various toolkits to encourage participation in cultural and sporting activities, which is essential for re-socialization and improvement of the behavior of the persons deprived of liberty.*

13. Sanctions and Incentives

The visit to "Armavir" Penitentiary Institution also covered monitoring of the sanctions and incentives applied to the persons deprived of liberty.

The comparison of the data on the application of sanctions and incentives shows that practically, the issue related to their severe disproportion still persists.

Hence, according to the documents studied during the visit, in 2012, as of the time of the visit, a total of 146 sanctions had been imposed on the persons deprived of liberty in the Penitentiary Institution, mostly in form of transfer to the penal cell and reprimand; at that, those forms of disciplinary sanction were applied almost at an equal rate.

It appears that transfer to the penal cell made up about 50% of the sanctions imposed in 2022, which is a rate that raises concerns.

When referring to the sanctions, the issue of their reasoning should be emphasized as well. Thus, the examination of the respective registers at the penitentiary institution has shown that most of them concerned keeping prohibited items, particularly, mobile phones. It is noteworthy that the decisions regarding the term of detention in penal cells were not well-reasoned; they did not provide any rationale as to the term of applying the sanction.

The examination of the decisions on imposing disciplinary sanctions in the form of transfer to a penal cell have also revealed that in cases of detecting during the search a mobile phone upon the persons deprived of liberty, they were transferred to the penal cell for different terms (3, 5, 8 and 10 days). Such decisions do not clearly provide whether the previous sanctions imposed on the persons deprived of liberty were still effective or had already been served at the time of making the decisions. Also, the decisions have no adequate reasoning as to the differential application of the term for transfer to the penal cell. In this regard, the decisions only contain descriptions of the domestic regulation violations by the persons deprived of liberty, without providing any reasoning as to the term of the imposed sanction, which is worrisome and may lead to a differentiated approach to similar situations.

Thus, the decisions on transferring the person deprived of liberty to the penal cell did not reflect all the circumstances underlying the imposition of a disciplinary sanction, which may make subject of appeal by the persons deprived of liberty.

In "Armavir" Penitentiary Institution, another issue related to transferring the persons deprived of liberty to the penal cell was identified as well. Particularly, the examination of the respective registers has shown that a number of persons deprived of liberty are continuously detained in solitary confinement in the penal cell without any relevant grounds. The monitoring shows that while the purpose of such sanction is to keep the person in solitary confinement and at that, at their own choice, it is still noteworthy that such practices are worrisome.

Particularly, given such practices, the detention of the person deprived of liberty in the penal cell for the purpose of punishment becomes meaningless and does not serve its purpose, and detaining a person continuously in the penal cell for the purpose of detaining him in solitary confinement becomes unlawful. It should be borne in mind that transferring a person to the penal cell is a disciplinary sanction and has a punitive purpose. Hence, in this case, the purpose of transferring the person to the penal cell becomes meaningless.

Hence, such practices are not lawful and, therefore, may not be deemed acceptable, as they lack the legal bases under the domestic law. With this regard, a specific differentiation should be developed by law.

According to the information provided by "Armavir" Penitentiary Institution, in 2022, 4 incentives were applied to the persons deprived of liberty: a short-term visit, a long-term visit and letters of gratitude to 2 persons. The applied incentives were not recorded in any register.

It is noteworthy that such a small number of the applied incentives gives rise to deep concerns. Such practices are unable to contribute in any way whatsoever to proper re-socialization and improvement of the persons deprived of liberty.

This indicates the lack of effective and flexible sanctions and incentives and criteria for application thereof.

With this regard, the system of incentives and its purpose are essential. Incentives must create real beneficial outcomes for the persons, which are foreseeable to the persons deprived of liberty. This means that the person should be well-aware of the actions and inactions for which he would get an incentive and the real beneficial outcomes that such incentive would yearn to him.

Therefore, it is necessary to:

- ✓ *In each case, make a well-reasoned decision to transfer the person deprived of liberty to the penal cell, by separately indicating the rationale for the term of detaining the person in the penal cell;*
- ✓ *Exclude differentiated application of disciplinary sanctions in similar cases, by ensuring a uniform policy for applying sanctions;*
- ✓ *Exclude any practices of transferring a person to a penal cell and detaining him there for purposes other than imposing on him a disciplinary sanction;*
- ✓ *Review the policy of not applying or applying few incentives to the persons deprived of liberty, by applying such incentives from time to time as necessary and making proper entries thereon;*
- ✓ *Review the system of sanctions and incentives, introduce a flexible and effective mechanism for application hereof.*

14. Issues related to the use of physical force, special means or weapons by penitentiary officers

Practically, while performing their official duties, penitentiary officers may have to use physical force or special means. In this regard, it is crucial that the use of force, special means or weapons must be legal, absolutely necessary in specific circumstances and strictly proportionate to the current danger. The items below may be used as special means: *rubber batons, handcuffs and foot cuffs, flash/sound diversionary devices, barrier breakers, water cannons or armored vehicles, service dogs and any other means that do not harm human health:*

During the visit to "Armavir" Penitentiary Institution, an in-depth examination of the use of force, special means and weapons by the penitentiary officers was carried out.

The analysis of the respective registers made it clear that in 2022, as to the date of the visit, special means were used in "Armavir" Penitentiary Institution to 5 persons deprived of liberty.

The Penitentiary Institution did not provide any video recordings on the aforesaid for the reason that such recordings were stored at the Penitentiary Service.

The data documented by the Defender's representatives were summed up and letters were sent to the competent authorities, namely the RA Prosecutor General's Office, the RA Ministry of Justice and Penitentiary Service.

In particular, the letter addressed to the Penitentiary Service required providing the complete package of the video recordings on using special means towards the persons deprived of liberty in "Armavir" Penitentiary Institution in 2022. Whereas, the Penitentiary Service did not actually provide the package of video recordings, which interfered with the fulfillment of the Human Rights Defender's functions in their capacity of a preventive mechanism, and the fundamental guarantees provided for the Human Rights Defender by the RA Constitution and the RA Constitutional Law on Human Rights Defender were ignored. In this regard, the Human Rights Defender addressed a respective letter to the RA Ministry of Justice.

It was agreed with the RA Ministry of Justice that the video recordings would be inspected on site, at the Penitentiary Service. The inspection of the video recordings by the Defender's representative at the Penitentiary Service revealed both legislative issues, and technical problems and problems related to improper or incorrect operation of the electronic surveillance devices, i.e. video recording devices.

Hence, Article 72(1) of the RA Penitentiary Code stipulates that *to ensure the safety of the convicts or any other persons or to protect other legitimate interests, to prevent or foil convicts' escapes, self-harms, suicides, violations of the established procedures of punishment, riots, crimes or any other offenses, electronic surveillance may be performed in the penitentiary institution and the area adjacent to it by using video recording devices or any other technical means.*

Part 2 of the said Article stipulates that *electronic surveillance shall be performed based on a **well-reasoned decree of the Head of the Penitentiary Institution**, for the purposes provided for in Part 1 of the Article. The electronic surveillance may be terminated by the decree of the Head of the Penitentiary Institution.*

According to Part 6 of the said Article, *any data obtained by recording or in any other form of registration in the course of electronic surveillance **may be preserved** if they relate to the circumstances provided for in Part 1 of this Article, any real risk thereof or commission of an offense, and in other cases, these data **shall be subject to destruction within 1 month upon their recording.***

Part 7 of the said Article provides that *if any offense is detected or recorded in the course of electronic surveillance, the videos or photos shall be preserved at the penitentiary institution till the end of the investigation into the offense (including appeal proceedings) or official investigation, unless any other term is set by law. If the videos or photos may assist in protection of the rights and*

legal interests of a person, they shall be preserved by the time the rights and legal interests of the person are restored, but for no longer than for a term of 6 months.

The analysis of the above-mentioned legal regulations shows that by the word “*may*”, the law stipulates the discretionary approach of the head of the penitentiary institution as to performing electronic surveillance and preserving the data obtained by recording or in any other form of registration.

It is noteworthy that it is also necessary and essential to introduce a video recording system in places of deprivation of liberty to insure effective investigation in the cases of alleged torture or ill-treatment as well as in terms of prevention of torture and ill-treatment. Its importance was also reflected in the UN Committee against Torture Concluding Observations on the fourth periodic report of Armenia of 27 January 2017.³⁶

Meanwhile, given the aforementioned legislative regulations, the effective performance of electronic surveillance becomes merely a goal in itself.

Also, Article 72(10) of the RA Penitentiary Code stipulates that the list of the persons performing electronic surveillance, the terms and conditions for the use, storage and destruction of the data obtained as a result thereof, the list of the officials entitled to get access to the obtained data, the list of the video recording, photo-taking and video and audio recording technical devices and the procedure for their application must be established by the RA Government. In this regard, on 30 November 2022 the RA Ministry of Justice put into circulation a draft law which was not yet adopted as of 13 December 2022.

³⁶See:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/ARM/CO/4&Lang=En

The inspection of the video recordings at the Penitentiary Service revealed issues related to the location of the video recording devices and the quality of the video recordings. In particular, the location of the video recording devices was problematic and therefore, such recordings did not reflect the full-scale image of the site and premises, the video recordings, in their turn, were of a poor quality, and the image was dim, with frequent interruptions and failures.

Hence, due to the above-mentioned issues, the video recording does not serve the purpose of proper electronic surveillance. The video recording devices should be installed in such a way that would make it possible to record and monitor the actions of the staff while using physical force and special means taken towards the persons deprived of liberty at the penitentiary institution. Also, such devices must be continuous high-definition (HD) video recorders for video recording during the dark time of the day and long-term video storage. It is also essential to provide the technical devices with memory chips with sufficient volume.

During the visit to "Armavir" Penitentiary Institution, the special means and civilian weapons: batons, gas weapons (pepper spray), electric shock devices and handcuffs available at the Institution were also examined.

It should be emphasized that the gas weapons were expired (storage term: till 10 November 2020). Keeping and, the more so, using expired gas weapons may be harmful to both the user and the affected person.

Also, it is noteworthy that the RA law does not envisage any regulations for disposal of expired means.

Hence, it is necessary to exclude the availability of expired gas weapons at the Penitentiary Institution. Moreover, the expired special means must be destroyed, and therefore, the RA law should stipulate regulations and procedures for disposal of such special means.

Recently, in many of the Council of Europe Member States, the police and some penitentiary authorities have been using in their official activities various types of electrical discharge weapons to restrain violent inmates.

Such weapons emit electric current either from a close distance or from a certain distance; they are intended to be less lethal than firearms and particularly, by the principle of gradually increasing the means used in dangerous situations.

Issues related to this type of special means were considered in the 20th General Report on CPT activities.³⁷ The CPT's position on the use of such weapons can be summarized as follows:

- Various types of electrical discharge weapons can cause acute pain and they are open to abuse. The criteria for deploying electrical discharge weapons should be both defined by law and spelt out in specific by-law regulations.
- Their use should be subject to the principles of necessity, proportionality and advance warning (where feasible) and precaution.
- The public officials to whom such weapons are issued must receive adequate training in their use.
- When using electrical discharge weapons capable of discharging projectiles, the criteria governing their use should be directly inspired by those applicable to firearms.
- Their use should be limited to situations where there is a real and immediate threat to life or risk of serious injury and recourse to such weapons should only be authorized when other less coercive methods have failed or are impracticable. Under no circumstances should they be used for the sole purpose of securing compliance with an order.
- In confined spaces, such as cells, they may only be used in very exceptional circumstances.

³⁷ See: <https://rm.coe.int/1680696a87>

- Electrical discharge weapons should be equipped with devices, e.g. memory chips, which can be used for recording various items of information and particularly, the exact time of use, the duration, the intensity of electrical discharges and must also have video recording properties.
- Anyone against whom an electrical discharge weapon has been used should, in all cases, be seen by a doctor and, where necessary, taken to hospital.
- Following each use of an electrical discharge weapon, there should be a debriefing and the incident should be the subject of a detailed report.

In their 2014 Report on the visit to Georgia, the CPT emphasized that *the use of tasers can only be justified as a means of last resort in very extreme circumstances where a real and immediate threat to life has arisen. Moreover, only specially selected and trained prison officers should be allowed to use them, and all necessary precautions should be taken when such equipment is used.*³⁸

It is worrisome that in the case of availability of tasers at the penitentiary institution, the security officers are generally not aware of the criteria for its use. Therefore, the need for relevant training courses due to potential necessity of using civilian weapons is of a key importance.

Another issue is related to the lack of internal procedures for planning and conducting searches. Improper planning of searches may in some cases lead to the need to use physical force or special means against the persons deprived of liberty. Thus, the interviews of security officers of the Penitentiary Institution revealed that when conducting searches, the penitentiary officers rely only on the general provisions stipulated by RA law.

³⁸See: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806961f8>, Para. 111:

In this respect, it is noteworthy that in Para. 53 and 55 of the 2nd General Report on its activities, the CPT describes the basic criteria for the use of force, which were further supplemented and refined in the reports on the visits to individual states.³⁹

According to the CPT criteria:

- Any pre-planned interventions (including searches) should be videotaped.
- The physical injuries sustained by the persons deprived of liberty and penitentiary officers should be properly recorded.
- Upon any intervention, all the officers and supervisors engaged therein should promptly prepare a detailed report.
- When performing their function of intervention, all the staff engaged therein should bear clearly visible personal identification marks and insignia as well as observe the fundamental principles of legality, necessity and proportionality.
- To evade all that, the security officers should be properly trained on relieving tension through verbal communication, use of force and reporting thereon.

A careful planning of the planned searches and a consequent thorough analysis of the entire process and its outcomes with the supervisors can play a crucial role in identifying omissions and mistakes and mapping out steps to prevent them in the future.

Therefore, taking into account the foregoing, it is necessary to:

- ✓ *Review regulations on electronic surveillance in penitentiary institutions;*
- ✓ *Change the location of the video recording devices;*
- ✓ *Provide the penitentiary institution with video-recording devices of proper quality;*
- ✓ *Provide the technical devices with sufficient volume memory chips;*
- ✓ *Develop regulations and procedures for disposal of expired special means;*

³⁹ See: <https://rm.coe.int/1680696a3f>

- ✓ *Develop detailed guidelines for the use of force, special means and weapons;*
- ✓ *Develop clear criteria for the use of electrical discharge weapons and tasers, along with holding proper trainings thereon for the penitentiary officers of security units;*
- ✓ *Duly plan all the actions involving the use of force, special means or weapons, including planned searches;*
- ✓ *Ensure that the penitentiary officers involved in planned search actions bear visible personal identification marks and insignia and that such activities are properly videotaped;*
- ✓ *Ensure that each use of force, special means or weapons, regardless of the fact of preparing files for initiating criminal proceedings, is thoroughly analyzed by the management of the security department and by the administration of the penitentiary institution;*
- ✓ *Ensure that following each use of force, special means or weapons, all the officers and supervisors involved therein prepare a detailed report on the legality of its use, its absolute necessity in specific circumstances and its strict proportionality to the existing danger;*
- ✓ *Duly record the physical injuries sustained by the persons deprived of liberty and penitentiary officers;*
- ✓ *Hold proper trainings for the penitentiary officers of security units on relieving tension through verbal communication, use of force, special means and weapons and on reporting thereon.*

15. Ensuring the rights of the foreigners deprived of liberty

At the time of the monitoring visit, 63 foreigners deprived of liberty were held at "Armavir" Penitentiary Institution. They were citizens of Georgia, Turkey, Greece, Russian Federation, Republic of India, Islamic Republic of Iran, and Republic of Moldova. Also, there were persons of Kurdish and Yezidi ethnic origin.

In their private interviews to the representatives of the National Preventive Mechanism, the foreigners deprived of liberty mentioned communication difficulties and specifically, the language

barrier as the primary obstacle to protecting their rights, which caused a number of complications in meeting their primary needs, access to medical care and social and psychological integration. As identified by the private interviews, some of the foreigners deprived of liberty had to learn some Armenian words or phrases or to communicate with other persons deprived of liberty to make their daily contacts with the staff possible.

In fact, due to the lack of permanent access to translation services in the penitentiary institutions, it is impossible to carry out effective communication with the persons deprived of liberty who do not speak Armenian. Moreover, the re-socialization and psychological activities are not fully performed with them or such activities are not performed at all. In particular, the persons deprived of liberty stated that due to contact and communication barriers, they have no opportunity to fully participate in the cultural events held in the Penitentiary Institution and to fully use medical, psychological and legal services.

Another issue is related to proper provision of the foreigners deprived of liberty with medical care and services, due to their language barrier (see the respective section of the statement).

While back in April 2022, the RA Ministry of Justice concluded a contract to ensure proper translation and interpretation services in 32 languages in 24/7 working regime in all the penitentiary institutions, at the time of the visit, the penitentiary institution had difficulties in accessing such service. Particular, it was noted that due to the location of the institution and the distance from the city of Yerevan, the interpreters often arrived late and only in cases of extreme necessity.

Hence, ensuring the rights of the foreigners deprived of liberty to health care as well as access to social and psychological support and to other available services is problematic. This, in its turn, casts doubt on the effectiveness of performance of the activities for improvement and re-socialization of foreign convicts.

The CPT also expressed its position on the issue. Particularly, in its Report on Gibraltar of 2015, the CPT states that *where staff do not have a knowledge of the languages spoken by the inmates, increased use of translation services should be available to facilitate communication.*⁴⁰

Back in its Report on Greece of 1994, the CPT also notes that *the penitentiary institutions were accommodating significant numbers of foreign prisoners and some foreign prisoners did not have a full understanding of the prison regime or of their rights and responsibilities, and there were serious difficulties of communication between prison staff and foreign prisoners. Such a situation can easily give rise to misunderstandings and possibly disputes.* The CPT therefore recommended that *appropriate steps be taken to counter these difficulties (e.g. preparation and translation into relevant foreign languages of a booklet describing the routine and regime of the prison, the rights and responsibilities of prisoners and staff, and complaints and disciplinary procedures; translation of those expressions most commonly used in daily interaction between prisoners and staff; basic training in foreign languages for designated prison officers).*⁴¹

With regard to solving the language barrier problems and ensuring the possibility of communication between foreigners deprived of liberty and the penitentiary system staff, the Human Rights Defender has repeatedly recommended that the penitentiary institutions involve interpreters in the work with foreigners as well as that phrasebooks are developed, special translation devices are acquired and respective foreign language training courses are held for the staff.

In their private interviews to the representatives of the National Preventive Mechanism, the foreigners deprived of liberty also stated that in the absence of visits of their relatives, they would prefer using the possibility of video calls more often and for a longer term.

⁴⁰ See:

<https://hudoc.cpt.coe.int/eng#%7B%22fulltext%22:%5B%22gibraltar%22%5D,%22sort%22:%5B%22CPTDocumentDate%20Descending,CPTDocumentID%20Ascending,CPTSectionNumber%20Ascending%22%5D,%22CPTDocumentType%22:%5B%22vr%22%5D,%22CPTSectionID%22:%5B%22p-gbr-20141113-en-12%22%5D%7D>

⁴¹ See <https://rm.coe.int/16806964c9>, Para. 102.

Therefore, at the stage of developing a respective resolution on approving the internal regulation for the detention facilities and penal institutions with regard to the adoption of the updated Penitentiary Code, it is necessary to provide for a reasonable frequency and duration of video calls for foreigners.

Another issue is related to the difficulties with making video calls due to the fact that the foreigners deprived of liberty and their families are in different time zones. In particular, foreigners deprived of liberty often have no opportunity to contact their family by a video call as they are in a different time zone and the hours permitted for video calls in the penitentiary institution do not coincide with the time zone of the location of their families.

The foreign detainees informed the Defender's representatives that in the institution, they often faced problems with provision of clothes. They mentioned that they had additional difficulty with provision of additional clothes fit for the weather conditions before their guilty verdict took legal effect as they had no relatives in the RA.

Also, the foreigners reported that they washed their bedding and clothes themselves as the convicts working at the institution's laundry demanded compensation in the form of cigarettes. The foreigners deprived of liberty expressed their discontent with the quality of the drinking water and food provided in the penitentiary institution.

Therefore, it is necessary to:

- ✓ *In order to protect the rights of the foreigners deprived of liberty, ensure the possibility of their proper communication with the administration of the penitentiary institution, by engaging interpreters, developing phrasebooks, acquiring special translation devices or holding respective foreign language training courses for the penitentiary system staff;*
- ✓ *Ensure communication with the persons deprived of liberty who do not speak Armenian in the course of provision of medical care and services;*

- ✓ *Properly notify the foreigners deprived of liberty of their rights and duties in a language they understand, by translating such information into the respective languages as necessary;*
- ✓ *At the stage of developing a respective resolution on approving the internal regulation for detention facilities and penal institutions, provide for a reasonable frequency and duration of access to video calls by foreigners deprived of liberty;*
- ✓ *Provide foreign detainees with the necessary clothes;*
- ✓ *Take steps to ensure proper provision of washing for the foreigners deprived of liberty.*

16. Working conditions of the personnel

Human rights protection is a comprehensive process which implies guaranteeing the rights of all its participants by ensuring a dignified treatment of each of them and establishing relations that guarantee mutual respect. One of the components of this principled approach is the situation with the rights of the personnel and officers of the competent authorities whose activities are called to protect the rights of the society members. Of course, this also applies to the penitentiary officers, their decent working conditions and social guarantees, including salaries.

The issues calling for revision and systemic changes in the penitentiary system are related to sufficient and proportionate salaries of the penitentiary officers and medical personnel and to creation of flexible incentive mechanisms. These solutions will have immediate positive significance in terms of the situation with ensuring the rights of the persons deprived of liberty and prevention of inhuman treatment and corruption risks in penal institutions.

Therefore, ongoing measures should be taken in this regard.

The monitoring has identified that there are no adequate working conditions in place for the penitentiary institution personnel. Particularly, due to the lack of any food outlets for the personnel near the penitentiary institution, they bring ready food from home and have no opportunity to

reheat it in the institution. Also, there are no refrigerators in the areas accessible to the personnel serving in the regime area of the penitentiary institution, which raises great concerns in terms of keeping food in hot weather.

The sanitary units for staff on the premises of the penitentiary institution were in an unacceptable sanitary and hygienic condition and needed cleaning.

Also, the monitoring visit identified inadequate conditions in the offices of the staff serving in the premises of the Penitentiary Institution. The offices had no windows and no options for ventilation, and the air temperature was quite high. Besides, various insects were found on the floor, walls and ceiling in the offices.

In their interviews to the Defender's representatives, the penitentiary officers expressed their discontent with their work overload and lack of any due opportunities for rest, which was caused by insufficient resources at the penitentiary institution. Particularly, in some cases they have to report to work after a round-the-clock shift, without any possibility of sufficient rest. The penitentiary officers noted that they also faced the same problem during their training courses, when despite being released from their official duties for some days to participate in the training, they had to miss some courses and report to the penitentiary institution. **This raises deep concerns in terms of ensuring the penitentiary officers' right of rest.**

In their interviews to the Defender's representatives, the penitentiary officers also informed that they had not been paid their annual leave pay for several years.

Therefore, it is necessary to:

- ✓ *Fundamentally improve the system of social guarantees for the personnel of the penitentiary system, including the salary;*

- ✓ *Provide adequate working conditions for the officers of “Armavir” Penitentiary Institution, including offices with adequate conditions, proper conditions for taking food, and sanitary units in sufficient sanitary and hygienic conditions;*
- ✓ *Ensure the penitentiary officers’ right to rest and their free participation in training courses.*

4.3. “Goris” Penitentiary Institution

1. Medical Care and Services

The visit has revealed that within the medical personnel positions in the Unit of the Penitentiary Medical Center SNCO /hereinafter referred to as the “Unit”/ located in "Goris" Penitentiary Institution, 2 positions of a doctor/physician (0.5 position rate/part-time each) and a psychiatrist (0.5 position rate /part-time) are vacant as there are no psychiatrists in the city of Goris. The Unit was staffed with 5 nurses: 4 shift nurses and 1 daytime nurse, a dentist and a surgeon. Paramedics or nurses are on round-the-clock duty. There are no doctors on duty in the penitentiary institution, and the Unit has no positions of medical attendants.

The Unit is located on the 1st floor of the residential premises of the Penitentiary Institution, with 2 rooms separated from each other by an incomplete wall. It should be emphasized that due to the lack of centralized heating at the institution, the said offices were heated with electric heaters and it was impossible to ensure sufficient thermal conditions. Moreover, the humidity level in the offices was high, and the plasters on the walls had fallen off.

As confirmed by the medical staff, the Penitentiary Institution is provided with sufficient variety and quantity of medicines. However, at the time of the visit, the medicines below were missing at the Unit: Ambroxol, Enalapril, Ketoprofen, Nemisil, Diclofenac ointment, Nebilet, etc.

The insufficient quantity and variety of medicines is also evidenced by the large amount of the medicines brought by the families of the persons deprived of liberty.

The studies have shown that the persons deprived of liberty receive various medicines from their families, such as Anaprilin, Ketonal Duo, Omeprazole, Otrivin, Nemisil, Diclofenac ointment, Aspirin Cardio, Teraflu, etc.

Failure to provide the persons deprived of liberty with the necessary range and quantity of medicines may lead to non-performance by the state of its commitment to provide the persons under its control with proper medical care and medical treatment. The key directions and principles of the public policy for provision of medicines established by law must also be applicable to the medical care and services provided to the persons deprived of liberty.

Obviously, the problem above must get a fundamental solution; that is, the purchase of the medicines should be arranged in such a way that the range of the medicines is enhanced and, in the case of medical prescription, the person deprived of liberty is provided with the necessary medical treatment without any delays.

The medicines brought by the families of the persons deprived of liberty are recorded in the respective register in the Unit. Most of such medicines are provided to the persons deprived of liberty without any doctor's prescription. The persons deprived of liberty may keep upon them the medicines brought by their families and take them as needed.

It is noteworthy that the Unit draws up orders for medicines after a previous study of the range of the medicines available in the pharmacy of the Penitentiary Medical Center SNCO.

It should be stated that administering to the persons deprived of liberty of any medicines not prescribed by a doctor or the failure to monitor the intake of medicines may cause deterioration of

their health. Therefore, due control should be conducted over the administration of the medicines brought by the families of the persons deprived of liberty, by excluding intake of any medicines not prescribed by a doctor and adhering to the principle of doing no harm.

It is welcome that the penitentiary institution was equipped with medical devices: electrocardiograph, bactericidal lamp, glucometer, tonometer, otolaryngoscope, tripod, dental equipment, sterilization device, etc.

The laboratory tests prescribed to the persons deprived of liberty held at "Goris" Penitentiary Institution are provided free on an as-needed basis at "Goris" Medical Center. As for not easily accessible screenings, magnetic resonance imaging and neuro-myography are provided at Kapan and Kajaran Medical Centers, respectively.

It should be emphasized that the persons deprived of liberty held at "Goris" Penitentiary Institution are transported to the Hospital for Convicts Penitentiary Institution for their planned treatment or examination by vehicles designated for transportation of persons deprived of liberty, generally twice a month. The transportation of a person deprived of liberty is effected in the term of the month when the respective vehicle arrives at the Penitentiary Institution. In cases requiring immediate intervention, transportation is effected urgently by the Institution's service vehicle or emergency vehicle.

The examination has shown that the persons deprived of liberty are freely registered with the medical facilities providing licensed out-patient and polyclinic medical care and services, even if such persons are foreigners or persons transferred from the Republic of Artsakh.

Reportedly, foreigners are freely registered and therefore, also served by ArMed electronic system.

As a result, the persons deprived of liberty may be provided with narrow-specialists' consultations and examinations at the polyclinic level, equipped with professional and technical resources.

The monitoring visit by the National Preventive Mechanism identified in the Unit violations of the storage conditions and terms of medicines.

Hence, expired medicines or medicines with unknown expiry dates, specifically, 10 vials of Dibazol (expiration date: before May 2022), 5 vials of Adrenaline (expiration date: August 2022) and 5 vials of Diclofenac (expiration date: before September 2022), were found in the daily use medicine bag of the nurse.

Also, the monitoring visit revealed in the first aid bags in the Unit medicines with cut foil blister, the expiration dates of which could not be monitored.

Hence, the medical personnel did not carry out proper control over the storage of the medicine, and the use of expired medicines is strictly unacceptable.

The monitoring has revealed that the Unit had no psychiatrist, and psychiatrists from other Units visit the penitentiary institution as necessary. If necessary, the persons deprived of liberty have to wait for the psychiatrist's next visit or receive remote counseling by phone.

It should be emphasized that "Goris" Penitentiary Institution also accommodates detainees, and in case of identifying any mental health problems at their admission, they are also "examined" by a psychiatrist over the phone.

In their private interviews to the Defender's representatives, the inmates with movement problems mentioned that they had difficulties when transferred to the court to attend a court hearing or to

other penal institutions. Particularly, there are no adapted vehicles for the persons using wheelchairs or persons with any other mobility problems.

The lack of adapted vehicles hinders the exercise of the rights of the persons with mobility problems, which is unacceptable.

In *Jhangiryan v. Armenia*, the European Court of Human Rights has found that the *transportation of a prisoner with mobility problems in standard prison vans intended for their transportation might give rise to an issue under Article 3 of the European Convention.*

Moreover, the above-mentioned vehicles have no ventilation systems; this causes additional difficulties in driving them in hot weather, and some of the persons deprived of liberty refuse to use such vehicles. The vehicles are problematic also due to their obsolescence and non-functionality.

It is welcome that the Unit is equipped with a dentist room, respective supplies, materials, a dental chair and disinfectants.

Dental services are provided by the Unit's dentist, who works part-time and visits the institution on an as-needed basis. The institution keeps a register on Provision of Dental Medical Care and Services to Detainees and Convicts which has respective entries on the data of the visiting patients, diagnosis of diseases or complaints, medical interventions, types of visits, temporary release from work and prescriptions. The entries were confirmed by the doctor's signature. Reportedly, the dental services provided at the Unit include dental extraction and treatment.

The examination of the Register on Provision of Dental Medical Care and Services to Detainees and Convicts shows that the dentist receives 1-3 patients daily.

Another issue is related to obtaining the informed consent of the persons deprived of liberty in case of medical interventions. The monitoring visit has identified that no written informed consent is obtained from the persons deprived of liberty for medical interventions (treatment, examination, wound-dressing, etc.). Thus, the aforementioned consent was missing in the medical cards of the persons receiving treatment, including psychiatric care and services at the Unit.

Whereas, according to Article 16(1) of the RA Law on Medical Care and Services to the Population, *a person's written consent to a medical intervention is a necessary condition for medical intervention, except for the cases provided for in Article 24 of this Law, that is, as prescribed by the Government in case of any threat to human life and as prescribed by law in case of diseases posing a threat to the people around them.*

Hence, the legislative requirements for obtaining informed consent of the persons deprived of liberty, including persons with mental health problems, for initiating their treatment are not observed, and no control is carried out over such practices.

Therefore, it is necessary to:

- ✓ *Carry out repair works and ensure adequate temperature in the medical room at the Penitentiary Institution;*
- ✓ *Provide a position of a medical attendant at the Unit;*
- ✓ *Take steps to fill the psychiatrist's vacancy at the Unit;*
- ✓ *Provide the persons deprived of liberty with medicines and medical supplies in sufficient quantity and range;*
- ✓ *Improve provision of the persons deprived of liberty with medicines on an as-needed basis, by extending the list of the medicines needed by the Penitentiary Medical Center SNCO, increasing their quantity and introducing alternative mechanisms for acquisition of medicines;*
- ✓ *Exclude availability of any expired medicines in the Unit;*

- ✓ *Observe the storage conditions of medicines;*
- ✓ *Develop effective mechanisms for monitoring the dates of medicines at the penitentiary institutions;*
- ✓ *Ensure transportation of the inmates with movement problems in adapted vehicles equipped with proper conditions;*
- ✓ *Develop procedures and templates for giving written informed consent to medical interventions, including provision of psychiatric care and services to the persons deprived of liberty, by excluding any medical interventions without the person's written consent*

2. Initial medical checkup

The initial medical checkup of the persons deprived of liberty newly admitted to the Penitentiary Institution is carried out in the room next to the checkpoint of the persons deprived of liberty intended for short visits at the Penitentiary Institution. The room was not adequately equipped for medical checkup activities.

The register on Recording the Physical Injuries of the Persons Brought to the Penitentiary Institution and Convicts was kept in the Unit the Penitentiary Institution. The paramedic and nurse on duty are responsible for making entries and keeping the register.

According to the template used for external medical examination records, the checkup is carried out by a paramedic or nurse.

The examination of the Register on Medical Checkup of Detainees and Convicts showed that there were records on detecting no injuries and wounds and lack of any complaints, and the causes of injuries were recorded in exceptional cases. Also, there were no records on the cases of unknown causes of injuries, their anatomical location, size and other criteria for describing injuries, which is not sufficient for detecting and duly recording cases of torture and ill-treatment.

Hence, the penitentiary institution did not provide ensure professional medical checkup and record-keeping thereof.

At the time of the monitoring visit, in 2022, a respective Template was filled out for 4 persons on alleged ill-treatment but the examination of the Register on Medical Checkup of Detainees and Convicts shows that the number of the persons deprived of liberty admitted to the penitentiary institution with injuries was higher in 2022. The causes of the injuries identified in some of such persons were not recorded in the Register on Medical Checkup of Detainees and Convicts, which is worrisome and does not serve the purpose of effective investigation into torture and ill-treatment cases. For instance, entries were made that H.H. who was admitted to the Penitentiary Institution on 18 October 2022 had injuries: “there are healing crusted wounds on the both knees, there are dry, crusted wounds on the right and left arms”, but no entries were made as to their causes, exact locations and other criteria describing the injuries. The medical checkup time was not recorded either.

In fact, even in case of availability of visible injuries on the persons deprived of liberty, the Template is filled out selectively, which is impermissible.

It should be emphasized that at the time of the visit, the Unit was not equipped with sufficient technical devices, and submission of the photos showing the injuries to the competent authority adds up difficulties to the work of the medical personnel.

It remains a concern that the initial medical checkup of the persons deprived of liberty is conducted when they are taken to court or to participate in investigative actions. During the monitoring visit, a person deprived of liberty was transferred to the court to attend a hearing and during the medical checkup carried out before taking him out of the Penitentiary Institution, he was only asked about his complaints and the visible part of his body was examined. Those actions were taken within the

hearing of the penitentiary officer. It follows from the aforesaid that the medical checkup is not duly performed when the person deprived of liberty is taken out of the penitentiary institution.

It should be highlighted once again that medical checkup must be carried out only by the medical personnel and out of sight and hearing of the penitentiary staff.

According to Clause 12 of the Annex to the RA Government Decree No 825-N of 26 May 2006, the medical checkup shall be carried out by the Unit doctors, and according to Clause 13 thereof, *medical checkup shall be conducted out of hearing and unless otherwise requested by the doctor conducting the medical checkup, out of sight of the officers of the detention facilities, non-medical staff of the penitentiary institution or the officers responsible for the transportation of the detainee or convict.*

Taking into account the foregoing, it is necessary to:

- ✓ *Conduct full external medical checkups of the persons deprived of liberty in any case of entering and exiting the penitentiary institution, out of hearing and unless otherwise requested by the doctor conducting the medical checkup, also out of sight of the staff;*
- ✓ *Equip the room designated for medical checkup at the entrance to the penitentiary institution with the necessary medical devices and the possibility to keep this room within the sight of the penitentiary officers, as necessary;*
- ✓ *Make records in the respective registers on alleged torture and other forms of ill-treatment in the cases prescribed by law and in compliance with the relevant procedure;*
- ✓ *Conduct monitoring and analysis to ensure filling-out of the Templates on alleged cases of torture and other forms of ill-treatment and to further comply with such procedures;*
- ✓ *Hold regular vocational training courses for medical personnel, including on proper recording of physical injuries.*

3. Conditions of detention; provision of bathing and washing; food provision

At the time of the visit, "Goris" Penitentiary Institution accommodated 87 persons deprived of liberty (48 convicts and 39 detainees); at that, 7 convicts and 9 detainees had been transferred to the Penitentiary Institution from the Republic of Artsakh.

The premises of "Goris" Penitentiary Institution was built in 1812-1816 and is currently in a state of 4th degree emergency, which is the main cause of the inadequate conditions of detention of the persons deprived of liberty and of the working conditions of the penitentiary officers in the Penitentiary Institution.

The monitoring has revealed that a number of sections in the Penitentiary Institution, including the cells and corridors are in an urgent need for repairs. Particularly, the walls were damp, the plaster had fallen off in some sections and the floor was cracked or destroyed. The floor in the corridors of the Institution was uneven with bumps.

The areas of the monitored cells in the Penitentiary Institution varied (from 15.7 square meters to 47 square meters), and such cells, depending on their size, accommodated 1-6 persons. While at the time of the visit, there were no problems related to overcrowding in the cells, it should be noted that reportedly, some cells in the Penitentiary Institution (about 8 cells) were not used due to their physical conditions, and **in case of using the full capacity as defined by law, providing 1 person with a minimum living space may be problematic.**

Almost all the monitored cells showed the same poor conditions; the humidity level was high, the lighting was insufficient, the ventilation and heating systems were missing. The cells were heated by electric heaters. The sanitary units of some of the cells needed repair as well.

The accommodation of "Goris" Penitentiary Institution (where convicts involved in technical works were kept at the time of the visit) was located on the 2nd floor of the premises, and the stairs leading there were located in the outer part of the premises. It is noteworthy that the difficult accessibility

of the entrance to the accommodation can cause additional complications for persons with mobility problems.

At the time of the visit, 2 convicts were involved in the paid technical and maintenance works. They informed the Defender's representatives that their main work was distributing food in the penitentiary institution and the repair and replacement of pipes, pipe valves and sockets.

It is noteworthy that after the monitoring visits to "Goris" Penitentiary Institution by the National Preventive Mechanism unit of the Human Rights Defender's Office on 13 October 2017 and 27 September 2019, the conditions of the Institution did not improve much, and the issues identified before were also recorded during this visit, which raises deep concerns.

According to the administration of the Penitentiary Institution, the persons deprived of liberty are provided with bathing once a week, cell by cell. Reportedly, the bathrooms and dressing-rooms are not heated.

The entrance to the bathroom on the 2nd floor of the Penitentiary Institution was one step higher than the corridor, which might create additional problems for persons with mobility problems.

In their private interviews to the Defender's representatives, the persons deprived of liberty expressed their discontent with the frequency of bathing at the Penitentiary Institution, by noting that they would like to have bath more often taking into account the weather conditions.

With regard to this issue, according to Rule 19.4 of the European Prison Rules, *adequate opportunities should be created for every person deprived of his or her liberty to be able to take a shower 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, and according to Rule 19.7, special provision shall be made for the sanitary needs of women.*⁴²

Bathing and keeping personal hygiene are of essential importance to the persons deprived of liberty, including in terms of their physical and mental health and well-being. Taking into account the specifics of keeping hygiene in case of shared accommodations, it is extremely important to provide the persons deprived of liberty with proper conditions for bathing and keeping hygiene, by ensuring adequate facilities and the possibility of taking bath more often.

The monitoring has revealed that the washing is mostly done in cells. Reportedly, the bedding and linen of the persons deprived of liberty are sometimes washed in the laundry room of the Penitentiary Institution, and they wash their clothes in the cells or pass them to their family members for washing.

The persons deprived of liberty have noted that they mostly did their washing themselves but they did not have hot water in their cells and therefore, every time they heated water with electric water heaters.

The monitoring visit of the National Preventive Mechanism identified that the food preparation services for the needs of the Penitentiary Institution were delegated to a private organization, and in their private interviews to the Defender's representatives, the persons deprived of liberty did not express any discontent as to the taste, quality, quantity or variety of the food provided in the Penitentiary Institution.

In their private interviews, the persons deprived of liberty stated that they more often preferred the food delivered to them in the parcels by their families and expressed their discontent with the

⁴² See: <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae>

maximum weight of the parcels acceptable weekly. They have mentioned that the new procedure for accepting parcels with a maximum weight of 20 kg per week creates additional difficulties for the families of the persons deprived of liberty, who have to travel long distances every week, due to the location of "Goris" Penitentiary Institution.

Apart from the above, the persons deprived of liberty have also mentioned that the maximum permissible weight of the parcels causes problems during long-term visits as well. According to them, the family members of the persons deprived of liberty bring food with them to use them during their long-term visits, and parcels with a maximum weight of 20 kg, mostly composed of liquids, is not sufficient for the person deprived of liberty and his family members.

The persons deprived of liberty suggested that the new procedure for accepting parcels was reviewed and that if possible, instead of the parcels with a maximum weight of 20 kg per week, they were allowed to receive parcels with a maximum weight of 40 kg every 2 weeks or with a maximum of 80 kg per month.

Taking into account the foregoing, it is necessary to:

- ✓ *Review the capacity of "Goris" Penitentiary Institution in proportion to the cells in use, to provide each person deprived of liberty with a living space prescribed by law;*
- ✓ *Carry out necessary repair work at the Penitentiary Institution by providing sufficient living conditions for the persons deprived of liberty;*
- ✓ *Adapt the bathrooms in the Penitentiary Institution and their entrances to the needs of the persons with mobility problems, by creating an adapted environment for them;*
- ✓ *Initiate an amendment to the RA Government Decree No 1543-N dated 3 August 2006, by providing the persons deprived of liberty with a possibility of bathing at least twice a week, based on the necessity and specifics of keeping the general hygiene for the persons deprived of liberty and taking into account the weather conditions;*

- ✓ *Review the procedure for accepting parcels at penitentiary institutions by providing flexible mechanisms.*

4. Penal cells and quarantine

In "Goris" Penitentiary Institution, the penal cells are located on the semi-basement floor and the quarantine unit – on the 1st floor.

Like the previous monitoring visit to "Goris" Penitentiary Institution, the visit of 28 October 2022 also identified inadequate conditions of detention in the penal cells and quarantine unit of the Penitentiary Institution.

"Goris" Penitentiary Institution has 3 designated penal cells, each for 1 person. Each penal cell was about 4.5 square meters, including the Asian-style sanitary unit which is not separated from the common cell. The sanitary units in the penal cells fell within the direct sight of the peep-hole, which is unacceptable.

With regard to this issue, the CPT has noted that *all too often, CPT delegations find that one or more of these basic requirements are not met, in particular in respect of prisoners undergoing solitary confinement as a disciplinary sanction. For example, the cells designed for this type of solitary confinement are sometimes located in basement areas, with inadequate access to natural light and ventilation and prone to dampness. And it is not unusual for the cells to be too small, sometimes measuring as little as 3 to 4 m²; in this connection, the CPT wishes to stress that any cell measuring less than 6 m² should be withdrawn from service as prisoner accommodation.*

Furthermore, meeting the needs of nature in the direct sight of others degrades the dignity of a person and is strictly unacceptable.

At the time of the visit, no persons deprived of liberty were held in the penal cells. The penal cells were in need of repair; particularly, the plaster on the ceiling and walls had fallen and the floor was worn-out. The humidity level in the penal cells was high.

According to the information provided by the administration of the Penitentiary Institution, there was no separate room for storage of the bedding for the prisoners held in the penal cells, and their bedding and linen could be only stored in humid and unsanitary conditions on the sideboard placed in the common corridor of the penal cell unit.

Such conditions in the penal cells are unacceptable; to secure the person's normal life activity, adequate conditions of detention should be ensured.

The quarantine cell was furnished with a 2-bunk bed. At the time of the visit, 1 person deprived of liberty on a hunger strike was kept in detention in the quarantine cell. The quarantine cell was in need of urgent repair. The plaster on the ceiling and walls had fallen off and the humidity level was high. Reportedly, the other vacant cells also serve as quarantine cells, if necessary.

It should be stressed that such unacceptable conditions in the quarantine cells at the penitentiary institutions can have a negative impact on the persons deprived of liberty, especially on those who have appeared at the penitentiary institution for the first time.

Taking into account the foregoing, it is necessary to:

- ✓ *Carry out repair and cleaning works in the quarantine cell and in the penal cells, including in their sanitary units;*
- ✓ *Separate the sanitary units in the penal cells from the living space with a complete wall and equip them with doors to exclude any possibility of full observation;*
- ✓ *Provide adequate storage conditions for the bedding of the persons deprived of liberty in penal cells.*

5. Communication with the outside world

The Human Rights Defender has repeatedly highlighted the importance of maintaining communication with the outside world by the persons deprived of liberty. Communication with family has a positive effect on them, which is also essential for their re-socialization and maintenance of social ties.

As of the monitoring visit, "Goris" Penitentiary Institution had 2 rooms for short visits, equipped with a table, a corner sofa and chairs. One of the rooms was equipped with a personal computer and headphones with a microphone. According to the administration of the Penitentiary Institution, that room was used for video communications of the persons deprived of liberty with their families. Reportedly, the rooms for short visits are also used for searches and external medical examination of the persons deprived of liberty. Besides, such rooms serve as rooms for investigative activities and meetings with lawyers. It is noteworthy that it might be problematic to hold visits, investigative actions, video calls and external medical examinations at a time. According to the penitentiary staff, they try to coordinate such activities in such a way that would exclude to the extent possible the simultaneous use of the room for different purposes.

It is noteworthy that the above-mentioned issue was also identified during the previous monitoring visit to "Goris" Penitentiary Institution. **However, the problem still remains unresolved, which raises concerns.**

The Penitentiary Institution has a room for long-term visits that was renovated and furnished. The room had a kitchen section as well as a separate bedroom and a tiled sanitary unit with a toilet bowl and a separate shower. Also, the room was equipped with a TV-set, a refrigerator and electric heaters.

It is noteworthy that the long-term visitors, including juveniles, have no opportunity to go out for walks due to the lack of a separate park. Also, the Penitentiary Institution had no separate children's room, which is problematic in terms of ensuring occupation of the children who came to visit.

On the 1st and 2nd floors of the Penitentiary Institution, there were 2 payphones that were functional and could be used for free calls to the hotline of the Human Rights Defender's Office. However, the payphones did not have any notes with the respective guidelines on calling the hotline (to call 116, the sign "#" should be pressed before dialing the number).

In their private interviews to the Defender's representatives, the persons deprived of liberty stated that they often had no opportunity to use the payphones at the Penitentiary Institution as it was very difficult to get payphone cards.

The interviews with the representatives of the administration of the Penitentiary Institution revealed that video calls were made with the help of the officer of the Social, Psychological and Legal Activity Division. Reportedly, video calls were made via Viber app.

The Human Rights Defender has repeatedly voiced the importance of maintaining communication with the outside world by the persons deprived of liberty. Communication with family has a positive effect on them, which is also essential for their re-socialization and maintenance of social ties.

Entries on video calls are made in the register No 115 entitled Register of Video Calls at "Goris" Penitentiary Institution" (volume 2). The video calls started to be recorded in the register since 19 May 2022, and the last entry was made on 27 October 2022. The inspection of the Viber app history has shown that the date of the last video call matched with that in the entries in the video call register, which is welcome.

According to the entries in the video call register, the video calls lasted from 7 to 20 minutes. In the term between 19 May 2022 – 27 October 2022, entries on 24 video calls were made in the register, and 1 of those video calls failed. Also, the register contains information about the dates of the applications for video calls (next to the date of each application, there is also an entry on the target country of the intended video call: RA or RF), the date, time, duration of the video call and the person deprived of liberty and the person receiving the video call. The register also has columns entitled "Successful or Failed (Cause)" and "Date/Time Changed". There are also columns for the signatures of the responsible officer and the person deprived of liberty. It is noteworthy that all the columns in the register were filled out, except for the entry on the cause for the one failed video call, as intended by the structure of the register.

Also, the room designated in "Goris" Penitentiary Institution for accepting the parcels passed for the persons deprived of liberty by their families was monitored during the visit. After the previous visit by the Human Rights Defender's representatives, a device for checking the parcels was acquired, which is welcome. Such device makes it possible to exclude any mechanical damage to the food and a number of problems caused thereby: mechanical contamination of food, spread of infection, etc.

Taking into account the foregoing, it is necessary to:

- ✓ *Designate a room in the Penitentiary Institution to serve for investigative actions to ensure proper arrangement of visits of investigators and lawyers;*
- ✓ *Designate a separate room in the Penitentiary Institution to serve for video calls to ensure proper arrangement of video calls and short visits;*
- ✓ *Provide the long-term visitors, including children, with a possibility to go out for walks;*
- ✓ *Designate a room in the Penitentiary Institution to serve as a children's room for children-visitors;*
- ✓ *Post next to the payphones in the Penitentiary Institution respective guidelines on calling the hotline of the Human Rights Defender's Office.*

6. Walks, occupation and education

In "Goris" Penitentiary Institution, the 4 separated cells for walks are located on the 1st floor. The cells for walks were equipped with benches as well as trash cans and shelter from bad weather. One of the cells for walks was also equipped with workout accessories but they were worn out.

In "Goris" Penitentiary Institution, the issue of the occupation of the persons deprived of liberty is problematic. Particularly, no sports tournaments and cultural events are generally held for the persons at the Penitentiary Institution, re-socialization programs and targeted trainings are held very rarely and no educational programs are held at all. According to the administration, it is not possible to hold any sporting events at the Penitentiary Institution as there is no gym there.

According to the information provided by the administration, soap-making training courses have been conducted at "Goris" Penitentiary Institution since September 2022, which is welcome. The soap-making training is carried out by an NGO. The training is facilitated by Nuri company engaged in natural soap production and aims to develop the convicts' skills of making soap from natural raw materials. After the training course is over, it is intended to present the works of persons deprived of liberty to sales-fair.

Hence, the initiation of similar training courses at "Goris" Penitentiary Institution is welcome but efforts should be made to ensure the continuity and availability of various training courses and other types of occupation.

The library at the Penitentiary Institution was also monitored in the course of the visit. According to the obtained information, the library has recently been replenished with new books. The private interviews with the persons deprived of liberty have revealed that they use the library rarely. The main explanation is the lack of new and interesting books for them.

Taking into account the foregoing, it is necessary to:

- ✓ *Carry out improvement works in the cells for walks at the Penitentiary Institution, by furnishing them with the necessary and new accessories for workout;*
- ✓ *Provide the persons deprived of liberty in the Penitentiary Institution with targeted occupations, including work, regular and targeted educational programs and professional training courses;*
- ✓ *Increase the involvement of the persons deprived of liberty both in the household maintenance works in the Penitentiary Institution and in any other possible works, taking into account their capacities, specialty, gender, age and other key factors;*
- ✓ *Replenish the library with literature on codes, laws and legal literature.*

7. Social, psychological and legal activities: re-socialization of persons deprived of liberty

The Social, Psychological and Legal Activity Division of "Goris" Penitentiary Institution is staffed with the positions of the Head of the Division, a social worker, a psychiatrist and a chief lawyer. At the time of the visit, the social worker was on leave and the position of the psychologist was not filled.

During the monitoring visit, the office and working conditions in the Social, Psychological and Legal Activity Division were in a poor state. In particular, the room was in need of repair, the plaster on the walls and ceiling had fallen off, and the floor was worn-out. **Such working conditions might negatively affect the socio-psychological activities carried out with the persons deprived of liberty and the efficiency of such activities.**

Conditions similar to those in the office and to the working conditions in the Social, Psychological and Legal Activity Division were also identified during the previous monitoring visit to "Goris" Penitentiary Institution. **As compared to the previous visit, the situation has remained unchanged, which is highly unacceptable.**

According to the provided information, the psychologist's position has been vacant since 2020. Therefore, no psychological activities have been carried out with the persons deprived of liberty for almost 2 years. The impossibility to provide psychological services may have a very negative impact on performance of the planned activities for the persons deprived of liberty. The aforesaid is especially problematic in the context of the availability of adaptation difficulties among the persons deprived of liberty, their negative attitudes, revision of behavior, activities with the inmates with negative tendencies, ensuring their re-socialization and a number of other issues.

Hence, the role of psychological services by a psychologist is highly important at a penitentiary institution starting from admission of the persons deprived of liberty to the penitentiary institution and till their release from there and if possible, also after their release from the penitentiary institution.

Therefore, the psychologist's position should be filled by reviewing if possible, the factors hindering it, including the social guarantees provided for such position.

Also, the monitoring visit covered examination of the individual cards of the detainees and convicts. It was revealed that the above-mentioned cards had additional pages affixed there by glue or stapler to secure further records. The study of the entries found in the individual cards showed that starting from 2020, there were no entries in Psychological Characteristics of the Convict section, which is problematic in terms of ensuring the professional assessment of the persons deprived of liberty, planning the further activities with them and fulfilling such planned activities.

The impossibility of providing psychological services at the Penitentiary Institution may also have a negative impact on development and implementation of the plan for convict's improvement as the psychologist's professional observations on the convict's psychological state, personal features and a number of other issues are prioritized while developing such plans. It is noteworthy that according to the information available in the monitored individual cards, the section on the *Result of the*

Performed Activities in the part entitled *Convict's Improvement Plan* had an entry "*Extended*" and there were no entries on the causes thereof. The aforesaid gives reason to doubt the effectiveness of the performed activities, clear professional assessment of the expected outcomes and the specifics of the person in question and any actions aimed to ensure the monitoring of the obstacles.

The studies carried out during the monitoring visit also showed that the improvement plans implemented at the Penitentiary Institution were merely of a formal/nominal nature and included only a simple listing of formal actions. The entries thereon had no mention of the dynamics of the performed activities and any evaluation criteria.

In their interviews, the Social, Psychological and Legal Activity Division personnel stated that training courses were regularly held for them and they highly appreciated the efficiency thereof.

Therefore, it is necessary to:

- ✓ *Provide appropriate conditions at the Penitentiary Institution to organize the proper activities of the Social, Psychological and Legal Activity Division;*
- ✓ *Take steps to fill the psychologist's position at the Psychological and Legal Activity Division, by reviewing to the extent possible the hindering factors, including the social guarantees provided for such position;*
- ✓ *Ensure proper structural and meaningful record-keeping of the documentation.*

8. Negative tendencies

Clause 45 of the Annex 1 to the Decree No 279-N of the RA Minister of Justice dated 13 July 2016 stipulates that *the detainees and convicts with a negative tendency /inclination/ shall be deemed to be the detainees and convicts who have a behavioral and personal tendency to violate the internal regulations of the institution or to cause harm to their own life and health or to those of other persons*

and the convicts who have criminal positions. Also, Clause 46 of the afore-mentioned Decree prescribes the procedure for registering and deregistering a detainee and a convict as a person with negative tendencies. Accordingly, *a detainee and a convict shall be registered and deregistered as a person with negative tendencies by the decree of the head of the institution, based on the information or opinions provided by the security, social, psychological and legal, medical service and intelligence /rapid-response units of the institution.*

The analysis of the above-mentioned legislative wording makes it possible to conclude that it does not meet the requirement of legal certainty and may give rise to divergent interpretations and practically lead to a differentiated approach.

Another problematic issue is related to the regulations for registering and deregistering a convict or a detainee as a person with negative tendencies. Practically, the process of registration and especially deregistration of a person based on having negative tendencies is not foreseeable and certain for the persons deprived of liberty, which increases the risk of arbitrariness.

An individual improvement plan is prescribed in the detainee's and convict's individual card, which, among other information, must have notes on the convict's psychological characteristics (Part VI of the individual card), emotional state, adaptability, interpersonal relations, personal qualities, temperament and intellectual level. Also, the motivations for negative behavior, the motivating factor for criminal behavior, the risk of re-offending/recidivism, negative tendencies, social needs and opportunities should be evaluated. The collection of similar in-depth psychological information entails a multilateral and professional psycho-diagnostic process by using psychological research methodology: in-depth interview, structured observation, testing (questionnaire), etc.

It is noteworthy that the aforesaid cannot be ensured due to the psychologist's vacant position. Generally, the entries in the monitored individual cards were formal/nominal in nature and

generalized and did not contain any detailed description of a multilateral and professional psycho-diagnostic action plan.

The examination of the register No 5 on Recording Detainees and Convicts with Negative Tendencies has identified that the column entitled *Brief Outline of the Activities Aimed to Reduce Tendencies* mostly have records on information of a general nature, without detailing a clear description of the activities taken to reduce any tendencies.

It follows from the examination of the register that a total of 2 persons deprived of liberty were monitored for negative tendencies in 2022. One of them was transferred to another penitentiary institution on March 17.

Referring to the application of the self-harm and suicide screening tool in the penitentiary institutions, it should be noted that it is applied by the responsible security officer on duty who is responsible for the process of admitting a person deprived of liberty to the penitentiary institution. And the in-depth risk assessment tool is applied by the psychologist. In the absence of a psychologist (if the position is vacant), the tool should be applied by the adequately trained social worker. Also, it is noteworthy that unlike the screening tool, in case whereof the evaluator concludes on the risk level from low to very high based on the number of "YES" answers and the respective scores, the risk assessment template relies on the expert's professional judgment as to the risk that the inmate might commit suicide or self-harm.

In their interviews on self-harm and suicide screening and risk assessment tools, the personnel of the Penitentiary Institution said that the specialists attended the necessary training courses. Reportedly, the in-depth risk assessment tool is applied by the trained social worker but it is impossible to ensure the psychological activities aimed at risk reduction due to the lack of a psychologist.

The study of the documents produced during the monitoring visit showed that according to the information available in the template of the Tool for Risk Assessment of Suicide and Self-harm at the Penitentiary Institutions of the RA Ministry of Justice filled out in the name of a person deprived of liberty A.M., his examination was conducted on 2 September 2022, by a social worker. The *Overall Risk Situation (Opinion)* section of the risk assessment tool had the entry below: *“Currently, the convict does not have any suicidal thoughts and manifestations, but taking into account the fact that he committed self-harm in the past, respective activities should be carried out with him intensively to avoid the risk of suicide in the future.”* The further study of the documents filled out in the name of A.M. showed that the above-mentioned person regularly committed self-harm. For instance, on 26 October 2022, he committed a self-harm on his left arm with a disposable razor. According to the information available in the report on the recorded case, A.M. behaved like that to be transferred to another penitentiary institution. According to the provided information, A.M. committed self-harm during the monitoring visit as well. Obviously, it is necessary to involve a psychologist to ensure an in-depth study of the case described above as well as planning and performance of further activities with the person deprived of liberty.

Summing up the foregoing and based on the importance of solving the current problems, it is necessary to:

- ✓ *Carry out activities with the persons with negative tendencies to reduce such tendencies and duly record such activities in the respective register;*
- ✓ *Define the concept of "negative tendency" and consider the reasoning for classifying certain types of tendencies among negative tendencies, taking into account the person's individual risk factor;*
- ✓ *In order to ensure thorough performance of the activities aimed at reducing the risk of self-injury and suicide, fill the psychologist's vacancy.*

9. Sanctions and Incentives

The visit to "Goris" Penitentiary Institution also covered monitoring of the sanctions and incentives applied to the persons deprived of liberty.

Hence, according to the documents studied during the visit, in 2012, as of the time of the visit, a total of 7 sanctions had been imposed on the persons deprived of liberty in the Penitentiary Institution. In 4 such cases, the persons were transferred to the penal cell, in 2 cases, the persons were reprimanded and in 1 case, the person was deprived of the right to use the phone for a term of 1 month.

It appears that transfer to the penal cell made up about 57% of the sanctions imposed in 2022, till the monitoring visit, which is a rate that raises concerns.

When referring to the sanctions, the issue of their reasoning should be emphasized as well. Thus, the examination of the respective decisions at the penitentiary institution has shown that they concerned keeping prohibited items and disobeying the legal requirements of the penitentiary officers. It is noteworthy that the decisions regarding the term of transfer to the penal cell were not well-reasoned; they did not provide any rationale as to the term of applying the sanction.

The examination of the decisions on imposing disciplinary sanctions in the form of transfer to a penal cell have also revealed that in cases of detecting during the search a prohibited item upon the persons deprived of liberty, they were transferred to the penal cell for different terms. For instance, when a mobile phone, considered a prohibited item, was found upon convict M.S., he was transferred to the penal cell for a term of 15 days, and the convict D.A. was transferred to the penal cell for at term of 5 days, whereas 4 mobile phones, mobile phone accessories, 0.5 liters of vodka, 6.5 liters of wine, pliers, 45 cutting and piercing tools, a homemade rope, 2 pieces of iron rod and a mouse were found in his cell.

Such decisions do not clearly provide whether the previous sanctions imposed on the persons deprived of liberty were still effective or had already been served at the time of making the decisions. Also, the decisions have no adequate reasoning as to the differential application of the term for transfer to the penal cell.

It should be emphasized that the substantive descriptions of the decision-making on transferring a person deprived of liberty to a penal cell as a sanction differ from penitentiary institution to penitentiary institution. Hence, the decisions on transferring a person to a penal cell made by the Head of "Vanadzor" Penitentiary Institution contains information about the previously imposed sanctions or absence thereof and on whether such sanctions have already been served or are still effective. And similar decisions made by the Head of "Goris" Penitentiary Institution have no such entries. In this regard, the decisions only contain descriptions of the domestic regulation violations by the persons deprived of liberty, without providing any reasoning as to the term of the imposed sanction, **which is worrisome and may lead to a differentiated approach to similar situations.**

Thus, the decisions on transferring the person deprived of liberty to the penal cell in "Goris" Penitentiary Institution did not reflect all the circumstances underlying the imposition of a disciplinary sanction, which might make subject of appeal by the persons deprived of liberty.

Taking into account the conditions of transfer to a penal cell as the most severe sanction imposed on the persons deprived of liberty and their possible negative implications, such transfer to a penal cell should be used as a sanction in extreme cases and any differentiated approach in similar situations should be excluded. Also, decisions on transferring a person to the penal cell should contain due rationale for the term of holding a person in detention in the penal cell.

According to the information provided by the administration of "Goris" Penitentiary Institution, no incentives were applied to persons deprived of liberty in 2022.

It is noteworthy that the lack of any incentives raises deep concerns. Such practices are unable to contribute in any way whatsoever to proper re-socialization and improvement of the persons deprived of liberty.

The system of incentives and its purpose are essential for re-socialization of the persons deprived of liberty. Incentives must create real beneficial outcomes for the person, which are foreseeable to the persons deprived of liberty. This means that the person should be well-aware of the actions and inactions for which he would get an incentive and the real beneficial outcomes that such incentive would yearn to him.

Therefore, it is necessary to:

- ✓ *Exclude differentiated application of disciplinary sanctions in similar cases, by ensuring a uniform policy for applying sanctions;*
- ✓ *In each case, make a well-reasoned decision to transfer the person deprived of liberty to the penal cell, by separately indicating the rationale for the term of detaining the person in the penal cell.*

10. Issues related to the use of physical force, special means or weapons by penitentiary officers

During the visit to "Goris" Penitentiary Institution, the cases of the use of force, special means and weapons by the penitentiary officers were monitored. No documents on the use of physical force, special measures or weapons were provided to the Human Rights Defender's representatives by the penitentiary staff. According to the staff, there were no cases of using physical force, special measures or weapons in the Penitentiary Institution in 2022.

During the monitoring visit, the storage conditions of the special means were examined as well. Hence, 1 handcuff, 1 tear gas and 15 rubber batons were found in the inspectors' room located in the residential premises and 1 tear gas, 1 handcuff and 1 taser were found in the room of the responsible

officers on duty. The tear gas was expired (the expiration date mentioned thereon was: 10 November 2020). It is noteworthy that keeping and, the more so, using expired tear weapons may be harmful to both the user and the affected person.

Hence, it is necessary to exclude the availability of any expired tear gas weapons at the Penitentiary Institution. Moreover, they must be destroyed.

Also, it is noteworthy that the RA law does not provide for any regulations for disposal of expired special means. **Therefore, regulations and procedures for disposal of special means should be stipulated by the RA law.**

The special means were locked. Another problematic matter is that the rooms of the responsible officers on duty did not have adequate storage conditions. The lock of the storage of the special means could be opened with great difficulty, which may cause problems in case of need for their immediate use.

Therefore, taking into account the foregoing, it is necessary to:

- ✓ *Keep record in the Penitentiary Institution of respective documents on the cases of use of physical force, special means or weapons, regardless of the frequency of such use;*
- ✓ *Ensure adequate storage conditions for the special means;*
- ✓ *Develop regulations and procedures for disposal of expired special means.*

11. **Ensuring the rights of the persons deprived of liberty transferred from the Republic of Artsakh**

At the time of the monitoring visit, "Goris" Penitentiary Institution accommodated 16 persons deprived of liberty (7 convicts and 9 detainees) transferred from the Republic of Artsakh. In their interviews to the Defender's representatives, the members of the administration of the Penitentiary

Institution and the medical personnel of the Unit raised issues related to ensuring their rights. For instance, they have stated that there are difficulties with reporting to the competent authorities of Artsakh the cases of detecting injuries at admission of the persons deprived of liberty transferred from the Republic of Artsakh as the respective procedures are missing.

The medical personnel have noted that they do not know which authority they should report on the injuries sustained by the person: the Prosecutor General's Office of the Republic of Armenia or of the Republic of Artsakh. They added that practically, they informed the Prosecutor General's Office of the Republic of Armenia.

Also, the penitentiary staff mentioned the problematic issue related to transfer of the persons deprived of liberty to the Republic of Artsakh to attend court hearings there. According to them, there are no clear procedures and persons responsible for the transfer of persons deprived of liberty.

Based on the foregoing, it is necessary to establish adequate procedures and clear mechanisms for ensuring the rights of the citizens of the Republic of Artsakh held in detention at "Goris" Penitentiary Institution.

12. Working conditions of the personnel

Human rights protection is a comprehensive process which implies guaranteeing the rights of all its participants by ensuring a dignified treatment of each of them and establishing relations that guarantee mutual respect. One of the components of this principled approach is the situation with the rights of the personnel and officers of the competent authorities whose activities are called to protect the rights of the society members. Of course, this also applies to the penitentiary officers, their decent working conditions and social guarantees, including salaries.

The issues calling for revision and systemic changes in the penitentiary system are related to sufficient and proportionate salaries of the penitentiary officers and medical personnel and to creation of flexible incentive mechanisms. These solutions will have immediate positive significance in terms of the situation with ensuring the rights of the persons deprived of liberty and prevention of inhuman treatment and corruption risks in penal institutions.

The monitoring has identified that there are no adequate working conditions in place for the penitentiary institution personnel. Particularly, due to the lack of any food outlets for the personnel near the penitentiary institution, they bring dry food from home and have no opportunity to reheat it in the institution. Also, there are no refrigerators in the areas accessible to the personnel serving in the regime area of the penitentiary institution, which raises great concerns in terms of keeping food in hot weather.

There was no separate sanitary unit for the officers on the 2nd floor of the Penitentiary Institution, and they used the sanitary unit located on the 1st floor. At the time of the visit, the sanitary unit was in an unacceptable sanitary condition and was in need of repair and cleaning.

Also, the monitoring visit identified inadequate conditions in the offices of the penitentiary staff. Particularly, the plaster on the ceiling and walls of some rooms had fallen off and the level of humidity in the air was high. The rooms were in need of repair.

Therefore, it is necessary to:

- ✓ *Fundamentally improve the system of social guarantees for the personnel of the penitentiary system, including the salary;*
- ✓ *Provide adequate working conditions for the officers of "Goris" Penitentiary Institution, including offices with adequate conditions, proper conditions for taking food, and sanitary units in sufficient sanitary and hygienic conditions.*

CHAPTER 5. CONDITIONS IN THE CELLS INTENDED FOR TEMPORARY DETENTION OF THE PERSONS DEPRIVED OF LIBERTY IN COURTS

The monitoring by the Human Rights Defender as a National Preventive Mechanism continues to examine, among other detention facilities, the conditions in the cells intended for temporary detention of the persons deprived of liberty at courts /temporary cells.

In frames of the monitoring in 2022, unannounced visits were made to Armavir and Vagharshapat residences of the General Jurisdiction Court of First Instance of Armavir Region (Marz) as well as to Artashat and Masis residences of the General Jurisdiction Court of First Instance of Ararat and Vayots Dzor Regions (Marzes) and to Ijevan and Berd residences of the General Jurisdiction Court of First Instance of Tavush Region (Marz).

The monitoring covered the sanitary and hygienic condition and the conditions of detention in the temporary cells for the persons deprived of liberty, and private interviews were held with the court staff members, bailiffs and RA Police convoy unit officers.

The comparison and analysis of the information obtained as a result of the visits identified a number of issues related to the physical conditions of the premises, lighting, cell furnishings, sanitary and hygienic situation as well as the environment not adapted to the needs of people with mobility problems.

The monitoring visits identified that there was a cell at the court residence in Armavir, which was furnished with 2 benches. The sanitary unit was equipped with a sink and toilet bowl and was separated from the cell by a door. It is noteworthy that the cell and the sanitary unit were in an urgent need of repair and cleaning. The need for repairs was also raised by the court staff members and bailiffs.

The court residences in Etchmiadzin and Artashat had 2 cells each. The cells at Etchmiadzin residence and particularly, their sanitary units were in need of cleaning and the cells at Artashat residence needed repair. In the cells of at Artashat residence, the humidity level was high, and the plaster on the walls and ceiling had fallen off. One of the cells had no sink, and the sanitary unit was cemented and not in use. It should be noted that the said cell was used, and the persons deprived of liberty held there had to use the sanitary unit of the other cell. In the other cell, the sink tap was not functioning well and water was constantly flowing from it. The cells in Artashat residence had no windows and no ventilation system and it was impossible to provide proper ventilation there.

The Masis court residence had 3 cells with sufficient light transmission. The above-mentioned cells and particularly, the sanitary units had insufficient sanitary and hygienic conditions. In one of the cells, the plaster on the ceiling and on the walls had fallen off.

2 of the cells had no water taps and 1 of them had no bench. **Hence, some of the temporary cells at Artashat and Masis court residences were not provided with access to drinking water and no free access to the sanitary unit.**

In this regard, the European Committee for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment (CPT) states in its Report on Malta (2016) that *the detained persons held in the court-holding facilities should have ready access to drinking water, and the court-holding facilities should be completely refurbished and be kept in a safe and decent state of repair.*⁴³

The visit also revealed that in Masis court residence, the doors of the cells were barred, and the sanitary units inside the cells were located in such a way that they were observed from the outside of the cell, from the corridor. **Such conditions are absolutely unacceptable and violate the person's right to dignified treatment and privacy.**

⁴³ See: <https://rm.coe.int/16806b26e8>, Para. 28.

Among the monitored courts, adequate physical conditions for detention of persons deprived of liberty were identified in Ijevan and Berd court residences, where the cells and their sanitary units were repaired and were in a satisfactory sanitary and hygienic condition. The court residences above had each 3 cells for persons deprived of liberty. The cells in Ijevan court residence had windows, and the cells in Berd court residence had no windows but had an air conditioning system.

Also, the visits revealed that a number of the monitored cells had no hygiene items. In particular, there was no soap in the cells of Armavir, Echmiadzin, Masis and Ijevan court residences, and there was no toilet paper in the cells of Echmiadzin, Ijevan and Berd court residences.

The monitoring visits of the Human Rights Defender's representatives revealed that the cells in the monitored court residences, except for the cell in Armavir court residence, were equipped with Asian-style sanitary units, which were separated from the residential space by an incomplete wall and had no doors. This is especially problematic considering that the cells may accommodate more than 1 person (reportedly, up to 4 persons).

The monitored court premises, cells and their sanitary units were not adapted to the needs of persons with mobility problems.

The private interviews with both the court staff members and the bailiffs revealed that the actions related to the placement of the persons deprived of liberty in the court cells, their transfer to the courtroom and security (including in the courtroom) are performed by the officers of the RA Police convoy unit. The bailiffs are present in the courtroom and do not interact with persons deprived of liberty.

The bailiffs also noted that no issue as to organizing food provision for the persons deprived of liberty was raised; such persons were not provided with food in the court.

Practically, in many cases problems arise as to which public authority should be responsible for placing the detainees in the court cells, providing them with adequate conditions of detention, including adequate food and medical care, health care and safety in the court premises.

Currently, the responsibility for providing food for the detainees transferred to the court is posed on the administration of the respective detention facilities. Particularly, before the detainee is escorted out, the administration of the respective penitentiary institution serves to them available food, which does not include hot meals.

Given this, further questions arise: e.g. how will the food be provided? Particularly, will it be served in cells (which are furnished only with benches and have no necessary conditions for food intake) or in the dining hall (that are not designated in the court premises for the persons deprived of liberty)? Who will provide the items necessary for taking food (plates, spoons, etc.)? These issues are not subject to clear legislative regulation.

It is noteworthy that the Decree 351-N adopted by the RA Government on 2 April 2009 on Approving the Procedure for Convoy and Protection of the Arrestees and Detainees by the Police under the Government of the Republic of Armenia does not pose on the Police convoy unit officers any duties as to placement the detainees in the court cells and providing adequate conditions of detention and ensuring their safety in the court premises. According to the regulations in Clause 70 of the above-mentioned Decree, *upon arriving at the court, the senior guard shall inform the head of the Office of the Court of apprehending the arrestees or detainees, after which the arrestees or detainees shall be escorted to the court cells intended for their detention. Before placing the above-mentioned persons in the cells, such cells must be inspected.*

The aforementioned regulations indicate that the functions of the police convoy unit officers are completed with the transportation of the arrestee to the court premises.

Clause 72 of the same Decree stipulates that *in order to keep the public order and ensure the safety of the trial participants at the court hearings, a special plan shall be developed and realized in advance with the mediation of the court or, on an as-needed basis, which provides for enhanced service and checkpoints and appointment of police squads, estimate of the necessary forces and means as well as presence of plainclothes police officers in the courtroom. The special plan shall be mapped out by the commander of the convoy unit. Then the special plan shall be agreed with the chairperson of the court and then approved by the chief of Yerevan City Department or regional (marz) departments of the Police.*

That is, the officers of the respective police units may be present in the courts (at court hearings) only to keep the public order and ensure the safety of the trial participants.

It turns out that the issues of placing the detainees in the court cells and ensuring their safety and adequate conditions of detention in the court premises remain open. Currently, all these functions are actually carried out by the police convoy unit officers. As a result, due to imperfect legislative procedures, the risks of human rights violations increase.

In this regard, it is noteworthy that the draft on changes and amendments to the RA Government Decree No 351-N of 2 April 2009, suggesting that the arrestees or detainees escorted by the convoy unit shall be passed in the court under the custody of the bailiffs in the court, was put into circulation, but no steps have been taken so far as to its adoption.

Also, the issues related to escorting the persons deprived of liberty in the court, ensuring their security and health in the court premises and to keeping arms by the bailiffs may be problematic in terms of lack of proper knowledge and skills.

Hence, based on the provisions of the RA Government Decree No 351-N of 2 April 2009 and the current practices, it can be stated that there is a legislative gap in terms of escorting persons deprived of liberty in the court as well as ensuring their safety and adequate conditions of detention in the court premises and healthcare. Also, the lack of clear legislative regulations causes problems with ensuring the rights of the persons deprived of liberty.

Taking into account the foregoing, it is necessary to:

- ✓ *Carry out necessary repair and cleaning works in the court cells;*
- ✓ *Furnish the cell in Masis court residence with a bench;*
- ✓ *Provide necessary conditions for food intake in the court cells;*
- ✓ *Equip the cell in Masis court residence with water taps and install a sink and equip the sanitary unit of the cell in Artashat court residence;*
- ✓ *Provide the court cells with hygiene items;*
- ✓ *Separate the sanitary units in the court cells from the living space with a complete wall and equip them with doors;*
- ✓ *Adapt the court premises, cells and their sanitary units to the needs of persons with mobility problems;*
- ✓ *Duly and clearly regulate by law the issues related to placing the persons deprived of liberty in court cells as well as ensuring adequate conditions of detention, including providing proper food and medical care, healthcare and ensuring their safety in the court premises.*

CHAPTER 6. VEHICLES FOR TRANSPORTATION OF PERSONS DEPRIVED OF LIBERTY: TRANSPORTATION, ESCORTING AND PROTECTION OF PERSONS DEPRIVED OF LIBERTY

The monitoring by the National Preventive Mechanism has at all times targeted the issues related to ensuring adequate conditions in the vehicles of the Police intended for transportation of the persons deprived of liberty.

Vehicle conditions

The annual reports on the activity of the Human Rights Defender as the National Preventive Mechanism have at all times raised the issues related to the conditions of the vehicles transporting the persons deprived of liberty, organization of such transportation and need for new equipment.

It follows from the written clarifications provided by the RA Police that according to the timetable for the action plan for 2020-2022 implemented by the RA Police following from the National Strategy for Human Rights Protection as approved by the Decree No 771-A of the Acting Chief of the RA Police dated 9 March 2020, 44 vehicles should have been acquired in the 1st half of 2022 for transportation of the arrestees and detainees in compliance with the international standards and such vehicles should be equipped with proper ventilation, lighting, heating and cooling, GPS, video recording systems, cells with an area exceeding 0.8 square meters, etc., 2 of which should be used for persons with special needs and disabilities.

To acquire the above-mentioned 44 special vehicles, a respective draft Government Decree was sent to the RA Ministry of Finance but it was not adopted as the reserve fund of the RA Government was overburdened. It is planned to purchase the above-mentioned vehicles in 2023.

Reportedly, in 2022, no vehicles intended for transportation of the persons deprived of liberty were withheld from circulation.

In this context, the Human Rights Defender, as a National Preventive Mechanism, continues to be concerned about the problematic conditions of the vehicles used for transportation of the persons deprived of liberty, which do not meet the international standards and particularly their cell sizes, insufficient light transmission, ventilation and non-adapted conditions for persons with mobility problems.

In consequence of the lack of any express standards set by the RA domestic law, the issues raised for year persist and are still urgent.

As to the conditions of the vehicles intended for transportation of persons deprived of liberty and particularly, the size of their cells, the CPT's standards are noteworthy. Hence, according to the CPT's reports on Lithuania of 2001⁴⁴, on Ukraine of 2002⁴⁵ and on Poland of 1998,⁴⁶ *it is unacceptable to transfer persons in cells of 0.4, 0.5 and even 0.8 square meters, regardless of the duration.*

Therefore, it can be stated that the space for each person deprived of liberty in the cells of the vehicles intended for transportation of such persons must exceed 0.8 square meters. Whereas, the Human Rights Defender's representatives have for years identified cells of 0.3, 0.4 and 0.5 square meters per person.

It follows from the analysis of the case law-developed by the European Court of Human Rights, that transportation of the persons deprived of liberty in overcrowded conditions is considered by the European Court to be a violation of Article 3 of the European Convention on Human Rights.⁴⁷

⁴⁴ See: <https://rm.coe.int/1680697331> , Para. 117.

⁴⁵ See: <https://rm.coe.int/1680698401> , Para. 129.

⁴⁶ See: <https://rm.coe.int/1680697913> , Para. 68.

⁴⁷ See: Judgment on *Idalov v. Russia* of 22 May 2012, application no. 5826/03, Para. 54, 61 and 103; Judgment on *Khudoyorov v. Russia* of 8 November 2005, application no. 6847/02, Para. 117.

It is noteworthy that back in 2019, the draft on making changes and amendments to the RA Government Decree No 351-N on Approving the Procedure for Convoy and Protection of the Arrestees and Detainees by the Police under the Government of the Republic of Armenia dated 2 April 2009 was submitted for the Human Rights Defender's Office to express their opinion thereon. According to the draft, in cases when it is impossible to escort persons with special needs due to their disease by special vehicles by the specialized convoy units, their escort and guarding may be organized by the ambulance vehicles. **However, it is worrisome that no effective steps have been taken in 2020 to adopt the draft Decree.**

The issue of vehicles adapted for transportation of inmates with special needs was raised in the annual reports on the activity of the Human Rights Defender, as the National Preventive Mechanism, of 2018, 2019, 2020 and 2021⁴⁸, but no appropriate solutions thereto have been made available yet.

Hence, urgent steps should be taken to ensure the adoption of the above-mentioned draft decree as soon as possible.

The monitoring visits carried out in 2022 as well as the complaints and alarms received by the Human Rights Defender identified a number of issues related to the transportation and convoy of persons deprived of liberty performed by the specialized convoy units of the RA Police.

Hence, the vehicles intended for transportation of the persons deprived of liberty are not provided with an adapted setting for inmates with mobility problems. Such conditions bring about additional difficulties when transporting a person deprived of liberty and even cause harm the health of a person with mobility problems.

⁴⁸ See: <https://ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf>, <https://ombuds.am/images/files/aaecbd07ea51e62da1b42ceed9470f81.pdf>, <https://www.ombuds.am/images/files/11f00f3e87d3490e4e8c56f207e4bc85.pdf> and <https://ombuds.am/images/files/3167e2e8e2e90d939c4cfd7c644593f.pdf>, pp.: 276-280, 332-337 355-361 and 249-252.

Therefore, it is necessary to:

- ✓ *Take ongoing 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 by domestic law standards for the size of the cells, lighting, ventilation and any other standards in the special vehicles by ensuring their practical application;*
- ✓ *Provide vehicles adapted to the needs of persons with mobility problems.*

CHAPTER 7. RA POLICE STATIONS AND DETENTION FACILITIES FOR THE ARRESTEES

A key direction of the activity of the Human Rights Defender as the National Preventive Mechanism is the protection of the rights of the persons deprived of liberty at the Police Divisions and in the Detention Facilities for the Arrestees. This Annual Report presents the issues identified by such activity and the proposals for their solution.

The representatives of the National Preventive Mechanism visited the RA Police stations and the detention facilities for the arrestees /hereinafter referred to as the “Detention Facilities”/ and carried out respective monitoring activities there.

A number of systemic problems regularly raised in the Annual Reports of the Human Rights Defender as the National Preventive Mechanism were mostly resolved by the RA Government Decree dated 4 August 2022 on Amending the RA Government Decree No 574-N⁴⁹ dated 5 June 2008.

In terms of the protection of human rights in detention facilities, we also consider it important to ensure the ongoing capacity building of the Police and its unit personnel (training, etc.) as well as the ongoing improvement of their social guarantees. This Report details on this in a special sub-chapter.

In 2022, the National Preventive Mechanism made unannounced visits within the monitoring to the detention facilities in Armavir and Vagharshapat of Armavir Regional (Marz) Department of the RA Police as well as in Artashat, Masis and Ararat of Ararat Regional (Marz) Department and in Noyemberyan, Tavush, Ijevan and Dilijan of Tavush Regional (Marz) Department.

⁴⁹ RA Government Decree No 574-N on Approving the Internal Regulations of the Detention Facilities within the Police System of the Republic of Armenia dated 5 June 2008.

The issues identified during the monitoring activities in the police stations and detention facilities are presented below.

7.1. Conditions of detention

Reasonable accommodation and adequate living conditions are required for the normal life activity of the persons deprived of liberty in the detention facilities. The issues identified by the examinations of the conditions at the detention facilities can be classified into the groups below:

- 1) Cell conditions;
- 2) Washing, bathing and sanitary and hygienic conditions;
- 3) Food provision;
- 4) Walks

1) Cell conditions

During the monitoring by the National Preventive Mechanism at all the detention facilities, there were no persons deprived of liberty there. The cells were mostly clean and neat.

The cells in the monitored police detention facilities were single or double. At the time of the monitoring visit, there were no persons deprived of liberty in the detention facilities. The cells were mostly clean and neat.

The detention facilities in Armavir, Vagharshapat, Artashat and Ararat were repaired. Also, adequate conditions of detention were recorded in Tavush and Dilijan detention facilities. As for the detention facilities in Masis and Noyemberyan, they were in need of cosmetic repairs. Particularly, the floor in the detention facilities was worn out, the plaster on the walls and ceiling had fallen off here and there and the humidity level was high.

The detention facilities in Ijevan were in an urgent need for major repair; the level of humidity was quite high there. The issue of inadequate conditions of detention was also raised by the police officers who mentioned that Ijevan detention facilities had problems with sewage pipes and such pipes had to be replaced with new ones. The urgency for the major repairs at Ijevan detention facilities is also conditioned by their overcrowding as according to the Police officers, there are people deprived of liberty there almost every day. They mentioned that a large number among the persons deprived of liberty admitted to the detention facilities are the detainees who are transferred from the penitentiary institutions to the detention facilities to attend the court hearings at the General Jurisdiction Court of First Instance of Tavush Region (Marz).

The adequate lighting, including sufficient daylight transmission is a crucial component in ensuring the well-being and normal life activity of the persons deprived of liberty.

The visit identified that the cells in all the monitored detention facilities had low level of natural lighting, which is due to small and mesh windows.

It is noteworthy that the cells in the detention facilities in Armavir, Vagharshapat, Artashat and Ararat had new windows which were opened from the corridor of the detention facilities by an electric control system. The availability of such system is welcome: the system makes it possible to easily open the windows to ventilate the cells.

The windows in the cells of the other monitored detention facilities were opened from the parks of the detention facilities. Moreover, the windows in the cells of the detention facilities in Masis and Tavush were installed quite high and might cause inconveniences even if opened from the park of the detention facilities. Reportedly, they are opened by using a mobile ladder.

Hence, the persons deprived of liberty have no access to opening or closing the window on their own, which keeps them dependent on the police officers.

Wooden and worn-out windows were identified in the detention facilities in Ijevan and Dilijan. Some windows at the detention facilities in Ijevan were broken off, which is problematic in terms of ensuring adequate temperature in the cells in cold weather. Reportedly, Ijevan Police Division has addressed a respective letter to the RA Police Headquarters regarding the issue of changing the windows in the detention facilities.

It is noteworthy that the electric lighting in the cells at the above-mentioned detention facilities is not turned off or dimmed throughout the night. According to the information provided by the representatives of the administration of the detention facilities, the electric lighting is not turned off for the purpose of monitoring the persons detained in the cells. As a result, the persons deprived of liberty are not provided with adequate sleeping conditions.

The issue of leaving the artificial lighting on throughout the nights in the cells at the detention facilities has been repeatedly documented by the Office of the Human Rights Defender in their summary statements on the findings of the monitoring visits to the detention facilities.

In this regard, while based on the recommendations of the Human Rights Defender as a National Preventive Mechanism, on 10 September 2019, the draft of the RA Government Decree on Amending the RA Government Decree No 574-N of 5 June 2008 was submitted to the Office of the Human Rights Defender to express their opinion thereon, it is still worrisome that no active steps have been taken so far towards the adoption of the draft Decree.

Hence, urgent steps should be taken to ensure adoption of the above-mentioned draft Decree as soon as possible.

Among all of the monitored detention facilities, one of the cells was designated for holding in detention women and juveniles and it was only the cell for women and juveniles in Armavir detention facilities that had hot water. That cell was equipped with a boiler, which was welcome.

Also, it should be added that in all the monitored detention facilities, the cells were equipped with call buttons that were functional. Only the detention facilities in Ijevan made an exception, with only 2 of its 4 cells equipped with call buttons. In this regard, the Police officers stated that they would take relevant steps to equip the other cells in the detention facilities with call buttons as well. The cells of the detention facilities in Ijevan had no radio-sets either. Moreover, according to the police officers, the cells of the detention facilities have never been equipped with any radio-sets.

Taking into account the foregoing, it is necessary to:

- ✓ *Take measures to ensure the necessary repair or major repair works in the detention facilities;*
- ✓ *Provide the cells in the detention facilities with electric regulators for dimming artificial lighting;*
- ✓ *Equip all the cells in Ijevan detention facilities with call buttons and radio-sets.*

2) Bathroom, toilet and sanitary and hygienic conditions

All the monitored detention facilities, except for the detention facilities in Tavush, had Asian-style sanitary units that were not adapted for persons with mobility problems. They were located 1 or 2 steps above the general floor level, which can create additional difficulties for persons with mobility problems to use the sanitary unit. And the sanitary unit in Tavush detention facilities was equipped with a toilet bowl.

In Masis, Noyemberyan, Tavush and Dilijan detention facilities, the bathroom and sanitary unit were combined; as a result, a person deprived of liberty cannot use the sanitary unit while another person deprived of liberty is taking a bath.

It is noteworthy that, unlike the detention facilities in Vagharshapat and Artashat, it was possible to directly observe the person inside from the windows on the doors of the sanitary units and bathrooms in the detention facilities in Armavir, Masis, Ararat, Noyemberyan, Tavush, Ijevan and Dilijan. **Such conditions are unacceptable in terms of human dignity and privacy.**

The sanitary and hygienic conditions in the monitored detention facilities were generally adequate. The detention facilities in Ijevan and Noyemberyan were in need of repair and cleaning. The Human Rights Defender's representatives did not identify any issues related to availability of hygiene items at the detention facilities. The cells in all the detention facilities had soap (there was liquid soap in Armavir, Vagharshapat, Artashat, Masis and Tavush detention facilities, which is welcome). The sanitary units in the detention facilities had toilet paper and soap.

It is also appreciated that hygiene items for women were available in the monitored detention facilities. Such items were not available only in Tavush detention facilities but before the monitoring visit ended, the detention facilities were provided with such items.

In this regard, it should be noted that according to the 10th General Report of the European Committee for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment /hereinafter referred to as the: "CPT"/, *The specific hygiene needs of women should be addressed in an adequate manner. Ready access to sanitary and washing facilities, safe disposal arrangements for blood-stained articles, as well as provision of hygiene items, such as sanitary towels and tampons, are of particular importance. The failure to provide such basic necessities can amount, in itself, to degrading treatment.*⁵⁰

⁵⁰ See: <https://rm.coe.int/1680696a74> , Para. 31.

The monitoring visits by the National Preventive Mechanism have shown that the washing at the above-mentioned detention facilities was done by the washing machines available there. The police officers noted that the laundry was done and ironed on the spot by the cleaning lady at the detention facilities. According to the obtained information, the laundry was dried within the territory of the Police stations but the visits showed that not all the detention facilities were equipped with appropriate laundry drying devices, and particularly, at some detention facilities, the washed bedding linen were dried on the bars of an iron device. The issue of the lack of the necessary conditions for laundry drying was also raised by the officers of Vagharshapat detention facilities.

Taking into account the fact that many persons deprived of liberty, who may be carriers of various infectious diseases, enter and are held at the detention facilities, a common form of disinfection of the detention facilities should be mapped out that would also provide standards for disinfection of bedding and linen, which would exclude the spread of infectious diseases.

Also, the visits have shown that at the detention facilities, the clean bedding items were kept in separate cabinets and those placed on the beds or in lockers in the cells were packed in plastic bags. Only Armavir detention facilities made an exception, where the clean bedding items were not placed in the cells but were stored in the cabinet of the detention facilities.

Hence, it is necessary to:

- ✓ *Separate the bathroom and sanitary unit at the detention facilities;*
- ✓ *Adapt the sanitary units at the detention facilities to the needs of the people with mobility problems;*
- ✓ *Exclude any possibility of direct observation of the sanitary unit and bathroom area at the detention facilities by ensuring the person's right to privacy;*
- ✓ *Equip the detention facilities with proper laundry drying devices;*

- ✓ *Develop and approve a common form of proper disinfection at the detention facilities by also setting standards for disinfection of bedding items, which will exclude the possibility of the spread of infectious diseases.*

3) Kitchen, food and parcels for the persons deprived of liberty

An essential condition for ensuring the normal life activity of the persons deprived of liberty at the detention facilities is the provision of necessary, sufficient and varied food.

At the monitored detention facilities, the food of the persons deprived of liberty is provided through delegated services based on respective contract signed with private organizations.

It is noteworthy that the previously allocated daily amount to provide a person deprived of liberty with food has increased from 830 AMD to 1200 AMD (1400 AMD for pregnant women, nursing mothers, juveniles and persons with diseases), which is welcome.

However, the representatives of the administration of the detention facilities have noted that the allocated daily amounts per person deprived of liberty still remain small and for this reason, few private companies apply for food supply tenders.

Reportedly, the food is transported to the detention facilities either by the private company or by the Police officers, 2 to 3 times a day.

During the visit to the detention facilities in Noyemberyan, the Police officers informed the Defender's representatives that sometimes there are cases when they provide food for the persons deprived of liberty themselves.

The kitchens in the monitored detention facilities were equipped with refrigerators and gas stoves. Only Ijevan detention facilities had no devices to reheat food, which is problematic.

The visits have identified that the parcels brought for the persons deprived of liberty are inspected by the officers with knives and forks. The special technical means are missing, which is a systemic problem in all the detention facilities.

Therefore, it is necessary to:

- ✓ *Review the daily amount for food provision allocated per person deprived of liberty at the detention facilities;*
- ✓ *Provide conditions for food re-heating at Ijevan detention facilities;*
- ✓ *Provide the detention facilities with special technical means for inspection of the food delivered in parcels for the persons deprived of liberty to exclude any unnecessary fragmentation and spoiling of food.*

4) Walks

During their monitoring activities, the representatives of the National Preventive Mechanism also identified issues related to ensuring walks for the persons deprived of liberty at the detention facilities.

The parks in the monitored detention facilities were equipped with shelters from bad weather, benches, trash cans and workout accessories and items (gymnastics bar, barbell, dumbbell, ball, basketball hoop, hula hoop). The parks were clean and well-maintained.

In the park at Ararat detention facilities, the asbestos sheets on the roof of the shelter from bad weather were placed on each other and the shelter did not cover the bench placed under it. In this regard, the Police officers stated that they put the sheets on each other due to the damage caused by

the continuous rains and wind to prevent further damage of the shelter. They expressed their willingness to rearrange the asbestos sheets on the park shelter in a way that would completely cover the bench placed under it.

It is problematic that the parks in some detention facilities can be reached only by stairs, which makes such parks inaccessible to persons with mobility issues.

Therefore, it is necessary to:

- ✓ *Equip the park in Ararat detention facilities with a shelter from bad weather conditions of adequate size;*
- ✓ *Ensure access to the parks in the detention facilities for persons with mobility problems.*

7.2. Medical care provision and record-keeping

The monitoring visits also covered the issues related to provision of medical care and services for the arrestees and detainees, including medical checkup of the persons deprived of liberty and appropriate recording of its findings.

The monitoring has shown that in some detention facilities, the medical checkup room is combined with the other rooms designated for another purpose. For instance, at Dilijan detention facilities, the medical checkup room is combined with the room for visits, and at Noyemberyan detention facilities, it is combined with the room for investigative actions. It is noteworthy that at Ijevan detention facilities, the washing machine is placed in the medical checkup room.

As a result, it is practically impossible to ensure at the above-mentioned detention facilities the simultaneous purposeful use of such rooms.

Another problematic matter is that the medical checkup rooms at the detention facilities were not provided with round-the-clock water supply and a sink. Particularly, the medical checkup room at Armavir detention facilities was not provided with round-the-clock running water, and the medical checkup room at Tavush detention facilities had no sink at all.

The inadequate conditions in the medical checkup rooms do not contribute to the proper exercise of the right to health care.

The monitoring visits also covered examination of the medicine cabinets and their contents located in the medical checkup rooms of the detention facilities. It is noteworthy that the medicine cabinets at the detention facilities had a wide range of medicines. Hence, there were a number of medicines, including Levomycetin, ammonium chloride and hydrogen peroxide at Dilijan detention facilities, which were not included in the medicine lists of the other monitored detention facilities. Of particular concern is the availability and potential use of anti-inflammatory medicine Levomycetin. At the same time, there were no antihistamine (anti-allergic) medicines available at Armavir, Artashat, Masis, Ijevan and Tavush detention facilities.

The medicines available in the medicine cabinets at the detention facilities were not expired, and some of the pills in the tablet sheets were used. It is noteworthy that there were no entries either on the use of the medicines available in the medicine cabinets at the detention facilities or on the reasoning of such use, and it is not clear to whom such medicines were provided and for what purpose.

Moreover, during the monitoring visits, the representatives of the administrations of the detention facilities assured that the police officers did not provide to the persons deprived of liberty any medicines from the medicine cabinets at the detention facilities. If necessary, an emergency medical service team is called, and the medical personnel administer the medicine.

In this context, questions arise as to the need for availability of medicine cabinets, medicines and other medical supplies at the detention facilities and the rationale for their use.

Hence, the availability of non-uniform medicine lists and the use of medicines without medical reasoning at the detention facilities raise concerns and may be problematic in terms of ensuring the right to health of the persons deprived of liberty.

During the monitoring visits, the representatives of the administrations of Armavir, Masis, Ararat, Noyemberyan, Tavush and Dilijan detention facilities have stated that an emergency medical service team is called at all times to conduct the medical checkup of the persons deprived of liberty admitted to the detention facilities. However, the examination of the register on the Medical Checkup and Medical Care of the Arrestees at Dilijan detention facilities revealed that only 1 of the 2 persons registered at the detention facilities underwent a medical checkup by an emergency medical service doctor. And as for Tavush detention facilities, the register on the Medical Checkup and Medical Care of the Arrestees had entries only on the medical checkup of 2 out of the 3 persons registered in the register on Keeping Record of the Persons Held at the Detention Facilities.

The register on the Medical Checkup and Medical Care of the Arrestees had entries only on the medical checkup of 4 out of the 14 persons registered in the register on Keeping Record of the Persons Held at the Detention Facilities at Armavir detention facilities. Moreover, they underwent the medical checkups a long time after their admission to the detention facilities.

Hence, not all the persons admitted to the detention facilities undergo medical checkup, which is impermissible.

The representatives of the administrations of Vagharshapat, Artashat and Ijevan detention facilities have stated that an emergency medical service team is called only if the persons deprived of liberty have health complaints or physical injuries.

The officers of Vagharshapat and Artashat detention facilities explained such practices by the scarce number of the emergency vehicles serving the community, by noting that in many cases, the emergency medical service teams are unable to reach the detention facilities, and if they do reach, they arrive after a long time after the call. The officers of Ijevan detention facilities have expressed their willingness to improve the practices of conducting medical checkups of the persons admitted to the detention facilities and added that each time henceforth they will call an emergency medical service team.

The examination of the register on the Medical Checkup and Medical Care of the Arrestees kept at the detention facilities revealed that the persons deprived of liberty admitted to the detention facilities underwent their initial medical checkup by the emergency medical service team on duty. However, in some cases, there were no entries on the time when the checkup was conducted by the doctor. As a result, it was not possible to estimate the time when the emergency medical service team is called after admission to the detention facilities of the person deprived of liberty and the time when the person deprived of liberty undergoes a medical checkup.

It should be emphasized that any person entering the detention facilities must undergo an external medical checkup, regardless of whether they demand any medical checkup or have any visible physical injuries.

The lack of information on the time of the medical checkup in the respective record on such medical checkup makes it impossible to find out when the medical checkup of the person deprived of liberty was carried out, how much time passed after the person was admitted to the detention facilities before he/she underwent the medical checkup and when were the person's complaints and injuries identified.

Also, the examination of the registers at the detention facilities revealed that in some cases the persons deprived of liberty underwent medical checkup by the emergency medical service team a few minutes after they were admitted to the detention facilities and in some cases – after a long time, up to 4 hours after their admission to the detention facilities.

Another important component of provision of medical care and services is ensuring protection of the medical confidentiality of the persons deprived of liberty.

It is noteworthy that according to the information received during the monitoring visits, in Vagharshapat and Artashat detention facilities the initial medical checkup of the persons deprived of liberty is carried out by the Police officers, who make entries in the registers on the Medical Checkup and Medical Care of the Arrestees.

The examination of the registers on the Medical Checkup and Medical Care of the Arrestees has shown that even in the cases when the medical checkup of the persons deprived of liberty is carried out by an emergency medical service team doctor, the personal data and complaints of the persons deprived of liberty are in some cases filled in by the Police officers. Moreover, at Dilijan detention facilities, the column on the *Health provider's name, surname, patronymic and signature* in the register on the Medical Checkup and Medical Care of the Arrestees had records on the personal data of the person deprived of liberty and their signature. In this context, it is necessary to exclude the presence and participation of any non-medical personnel in the course of provision of medical care and services in the detention facilities.

According to Para 10(e) of the UN Committee against Torture Concluding Observations on the fourth periodic report of Armenia, *the State party should take effective measures to guarantee that all detained persons are afforded in practice all the fundamental legal safeguards against torture from the outset of their detention, in accordance with international standards.*

Such rights include the right to access to a medical examination by an independent doctor that should be conducted out of hearing and, unless explicitly requested by the doctor, out of sight of police staff. The State party should guarantee in practice the independence of doctors and other medical staff dealing with persons deprived of liberty, ensure that they duly document all signs and allegations of torture or ill- treatment.

In this regard, it should be emphasized that medical examinations should be carried out only by a doctor and out of hearing and sight of the staff of detention facilities

According to the CPT standards, the results of every examination as well as relevant statements by the detainee and the doctor's conclusions should be formally recorded by the doctor and made available to the detainee and his lawyer (See: 2nd General Report on the CPT's Activities covering the period: 1 January to 31 December 1991, Para 38).

While since 2017, the above-mentioned issues have been constantly recorded by the National Preventive Mechanism Unit of the Human Rights Defender's Office in their summary statements on the findings of the monitoring visits to the detention facilities and in annual reports on the activities of the Human Rights Defender as the National Preventive Mechanism, such issues still remain unresolved. It is welcome, of course, that every time a person deprived of liberty enters the detention facilities, an emergency medical service team is called and conducts the medical checkup of such persons but the issue is systemic and has not been fully resolved yet.

Also, the findings of the monitoring visits prove that no entries are made at the Police detention facilities on initial medical examination and adequate professional records thereon.

It is obvious from the aforementioned that the emergency medical service doctors do not record a complete picture of the findings of the objective medical examinations and in some cases, do not describe the exact anatomical location, color, surface and other criteria describing the injury.

The lack of recording of the above-mentioned criteria in the initial medical examination does not serve the primary objectives and requirements of the initial examination.

With regard to the absolute prohibition of torture, the international community has developed a number of standards to protect the persons deprived of liberty from torture as well as to prevent and identify such cases.

Hence, the 2004 UN Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁵¹ /hereinafter referred to as the: “Protocol”/ comprises essential standards for the effective investigation of cases of torture and ill-treatment. It lays down guidelines for investigating cases of alleged torture and ill-treatment, medical examination of torture survivors and reporting findings to the competent authorities.

With regard to the cases of torture and other forms of ill-treatment, the role of the medical examination records is prioritized, which may be of essential importance for detection of such cases.

The Protocol sets standards for the medical examination of persons subjected to torture and ill-treatment. According to Para 175 thereof, *the examiner should note all pertinent positive and negative findings, using body diagrams to record the location and nature of all injuries*. To that end, the Annex to the Protocol provides special templates with male and female anatomical drawings to make notes based on the respective guidelines.

⁵¹ See: 2004 UN Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Available at: <http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>

The aforementioned also have a preventive role, and application of the templates and guidelines contained in the Protocol by independent medical professionals will significantly contribute both to the effective investigation and detection of cases of torture and ill-treatment and to their prevention.

The European Court of Human Rights has also prioritized the application of the Protocol principles and guidelines when assessing the lawfulness of the state actions within investigation of the cases of torture in the context of Article 3 of the European Convention.⁵²

In this regard, it should be noted that unlike the situation with the Police detention facilities, in 2021, the RA Minister of Justice approved the forms for conducting medical examinations on the cases of torture and other forms of ill-treatment and recording such cases and the guidelines for filling out such forms to be applied at the penitentiary institutions.

Taking into account that the draft RA Government Decree on Amending the RA Government Decree No 574-N of 5 June 2008 is still at its circulation stage, now, it is necessary to consider the introduction of similar forms and guidelines at the Police detention facilities.

The development of the respective forms and guidelines as well as the use thereof in training of emergency medical service doctors and their practical application will contribute to the maximum to prevention of torture and other forms of ill-treatment.

Therefore, it is necessary to:

- ✓ *Separate at the detention facilities the area designated for medical examination and medical care from rooms intended for other purposes;*

⁵² See: Judgment on *Bati and Others v. Turkey* of 3 June 2004, application no. 33097/96 and 57834/00, Para. 100; Judgment on *Boke and Kandemir v. Turkey* of 10 March 2009, application no. 71912/01, 26968/02, 36397/03, Para. 48.

- ✓ *Equip the medical examination rooms at the detention facilities with a sink and provide such rooms with round-the-clock running water;*
- ✓ *Provide the persons deprived of liberty with medicine only in the case of medical examination and prescription, by making entries thereon in the respective register;*
- ✓ *Arrange the medical examination of each person entering the detention facilities and proper record-keeping (including the time of the medical examination), regardless of whether such persons have any health complaints, demand a medical examination or have any visible physical injuries;*
- ✓ *Develop templates and respective guidelines for recording torture and other forms of ill-treatment at Police detention facilities;*
- ✓ *Carry out professional training for emergency medical service doctors on adequate recording of injuries.*

7.3. Proper record-keeping of registers

The monitoring visits by the representatives of the National Preventive Mechanism have identified a number of issues related to improper record-keeping in the registers of the detention facilities.

In particular, the study of the registry on Keeping Record of the Persons Held at the Detention Facilities has revealed that in some cases, the Arrest Date and Time column has a record on the date and time of the arrest of the person deprived of liberty and has no entry on the time such person entered the detention facilities, or vice versa. As a result, it was not possible to find out how much time passed after the person entered the detention facilities before he/she underwent the medical checkup. Given this, the approximate data on the entry of the persons deprived of liberty to the detention facilities could only be verified through their comparison with the register on the Medical Checkup or Medical Care of the Arrestees.

Also, issues were identified with keeping record of the apprehended persons. For instance, some cases were revealed in the medical checkup register in Artashat detention facilities when a person underwent a medical checkup and received first aid interventions but there were no respective entries thereon in the register on exits from the cell. It is noteworthy that according to the police officers, the medical examination of the persons deprived of liberty is at all times carried out in the medical examination room.

Taking into account the right to personal liberty and the fact that detention facilities constitute places of deprivation of liberty, proper record and documentation should be kept of any and all entries and exits as well as any movements and medical examinations of all the persons admitted to the detention facilities.

7.4. Communication with the outside world

Communication with the outside world by the persons deprived of liberty is of crucial importance for their maintenance of social ties.

For the arrestees, communication with the outside world is of essential significance. Specifically, its role is highlighted by the fact that the persons deprived of liberty should not lose their social ties developed while they were at liberty.

Among the monitored detention facilities, the 2 sections of the visit rooms (the sections intended for the person deprived of liberty and their visitor) in Armavir, Vagharshapat, Masis, Artashat, Ararat and Tavush detention facilities were separated from each other by a glass partition mounted into the common wall, which restricted physical contact between the persons during the visit. The communication between the person deprived of liberty and their visitor is provided through the holes on the glass partition or the phones available in the both sections of the meeting room. It is

noteworthy that one of the phones in the visit room in Armavir detention facilities was out of order, due to which the interlocutor's voice could not be heard.

It is noteworthy that at Noyemberyan detention facilities, the 2 sections in the visit room were not separated by any glass partition, making it possible to ensure physical contact with the visiting persons, which is welcome.

While Clause 119 of the RA Government Decree No 574-N on Approving the Internal Regulations of the Detention Facilities for the Arrestees within the Republic of Armenia Police System dated 5 June 2008 sets forth a requirement for separating the visit room with a solid wall and a transparent barrier, such approach contradicts the international standards

Hence, with regard to the issue under consideration, the CPT recommends in its 2015 Report on Austria that *remand prisoners be, as a rule, able to receive visits from their family members without physical separation; visits with a partition should be the exception and applied in individual cases where there is a clear security concern.*

The European Court of Human Rights also expressed a position on the above-mentioned issue in its judgment on *Moiseyev v. Russia*. According to the factual circumstances of the case, during the visits, the applicant was separated from his relatives by a glass partition and talked to them through an interphone. In this matter, the European Court recorded a violation of the right guaranteed by Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (*See: Judgment on Moiseyev v. Russia of 9 October 2008, application no. 62936/00, Para:80, 257-259*).

In its position, the Court specifically stated that *while granting visits through a glass partition might be justified by security reasons, the said measure cannot yet be considered necessary in the absence*

of a substantial security risk (See: Judgment on Ciorap v. Moldova of 19 June 2007, application no. 12066/02, Para. 117).

In this regard, it is appreciated that based on the recommendations of the Human Rights Defender as a National Preventive Mechanism, Clause 122 of the Annex to the draft RA Government Decree on Amending the RA Government Decree No 574-N of 5 June 2008 submitted on 10 September 2019 to the Office of the Human Rights Defender for opinion provides that a 20 cm high glass partition should be installed on the table in the visit room, which will not restrict the physical contact between the persons.

It is necessary to emphasize once again the need for urgent adoption of the above-mentioned draft Decree.

In Ijevan detention facilities, the visit room was combined with the investigative room, and in Dilijan detention facilities, the visit room was combined with the medical examination room. As a result, it is practically impossible to ensure the simultaneous purposeful use of such rooms, especially when the detention facilities (Ijevan detention facilities) are overloaded. According to the information provided by Ijevan detention facilities officers, the visits to the persons deprived of liberty are held in their presence, within their hearing, **which is unacceptable.**

According to Clause 56 of the Annex to the RA Government Decree No 574-N of 5 June 2008, *visits with close relatives shall be are conducted under the surveillance of the detention facilities officers.*

In this regard, it should be emphasized that the Annex to the draft RA Government Decree on Amending the RA Government Decree No 574-N of 5 June 2008 should be amended, by stipulating only visual monitoring over the visits of close relatives to the persons deprived of liberty, which would make it possible to see but not to hear them. Creating such conditions is essential in terms of ensuring the right to privacy of the person deprived of liberty.

The conducted monitoring visits have also identified problems with the payphones at the detention facilities. Particularly, in some detention facilities, the payphones were installed in the visit room, and practically, it was not possible to ensure the proper exercise of the rights of the persons deprived of liberty to use the telephone communication and to meet their visitors.

While at the detention facilities in Vagharshapat, Masis, Ararat and Dilijan, the payphones had a note thereon with the 116 hotline number of the Human Rights Defender's Office and a guideline for calling it, it was not possible to call that number by using the payphones. Hence, by calling 116 from the payphone at Vagharshapat detention facilities, one could reach the Rescue Services of the RA Ministry of Emergency Situations. The payphone at Masis detention facilities was not connected to the landline telephone station. The payphone at Dilijan detention facilities was out of service. And at Ararat detention facilities, the cable connecting to the payphone was damaged. At Tavush detention facilities, it was possible to call the Human Rights Defender's hotline number, but there was no guideline for calling available there.

The Defender's representatives discussed the problems listed above with the heads of the Police stations who expressed their willingness to remedy the deficiencies in a short term and provide the detention facilities with the possibility to freely call the Human Rights Defender's hotline 116.

In Armavir, Artashat, Ijevan and Noyemberyan detention facilities, there were no problems with calling 116 or availability of respective guidelines.

Also, it should be added that the investigative rooms at the monitored detention facilities were well-maintained and had adequate sanitary and hygienic conditions.

During the visit, upon notifying the administrations of the detention facilities, the Human Rights Defender's representatives posted at the premises of the detention facilities informative posters on

the mandate and activities of the National Preventive Mechanism and placed information leaflets in the cells.

Taking into account the foregoing, it is necessary to:

- ✓ *Ensure arranging of visits to the persons deprived of liberty without any glass partition restricting their physical contact;*
- ✓ *Ensure the functionality of the telephones in the visit room at Armavir detention facilities to duly ensure communication between the person deprived of liberty and the visitor;*
- ✓ *At Ijevan and Dilijan detention facilities separate the visit room from other rooms intended for other purposes;*
- ✓ *Exclude the presence of any Police officers during the visits to the persons deprived of liberty, by restricting their functions to visual monitoring only as necessary;*
- ✓ *Set in the Annex to the draft RA Government Decree on Amending the RA Government Decree No 574-N of 5 June 2008 a requirement of only visual monitoring over the visits of the persons deprived of liberty by their close relatives;*
- ✓ *At the detention facilities, take the payphone out of the visit room by providing the persons deprived of liberty with access to confidential phone conversations and to visits;*
- ✓ *Be consistent to ensure the smooth functioning of the payphones and ensure the possibility to freely call the Human Rights Defender's hotline 116.*

7.5. Working conditions of detention facility officers

Human rights protection is a comprehensive process which implies guaranteeing the rights of all its participants by ensuring a dignified treatment of each of them and establishing relations that guarantee mutual respect. One of the components of this principled approach is the situation with the rights of the personnel and officers of the competent authorities whose activities are called to protect the rights of the society members.

Of course, this also applies to the Police officers, their decent working conditions and social guarantees, including salaries

Therefore, proper working conditions for the officers at the detention facilities should be created and the system of their social guarantees, including salaries should be improved.