



CPT/Inf (2011) 24

## **Report**

**to the Armenian Government  
on the visit to Armenia  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 10 to 21 May 2010**

The Armenian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2011) 25.

Strasbourg, 17 August 2011



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**Copy of the letter transmitting the CPT's report**

Mr Nikolay ARUSTAMYAN  
Deputy Minister of Justice  
Ministry of Justice  
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Yerevan 0079  
ARMENIA

Strasbourg, 1 December 2010

Dear Mr Arustamyan,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Armenian Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Armenia from 10 to 21 May 2010. The report was adopted by the CPT at its 73<sup>rd</sup> meeting, held from 8 to 12 November 2010.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Armenian authorities to provide **within six months** a response giving a full account of action taken to implement them.

The CPT trusts that it will also be possible for the Armenian authorities to provide, in the response requested within six months, reactions to the comments formulated in this report as well as replies to the requests for information made.

As regards the information requested in paragraph 110, the CPT asks that it be provided **within one month**.

The CPT would ask, in the event of the responses being forwarded in Armenian, that they be accompanied by an English or French translation. It would be most helpful if the Armenian authorities could provide a copy of the response in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's visit report or the future procedure.

Yours sincerely,

Mauro PALMA  
President of the European Committee for  
the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment





## I. INTRODUCTION

### A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT visited Armenia from 10 to 21 May 2010. The visit formed part of the Committee’s programme of periodic visits for 2010. It was the CPT’s third periodic visit to Armenia.<sup>1</sup>

2. The visit was carried out by the following members of the CPT:

- Mauro PALMA, President of the Committee (Head of delegation)
- Ivan JANKOVIĆ
- Isolde KIEBER
- Marzena KSEL
- George TUGUSHI

who were supported by Johan FRIESTEDT and Stephanie MEGIES of the CPT’s Secretariat.

They were assisted by:

- Paul BUSCHINI, Director of Operations, Garda Síochána Ombudsman Commission, Dublin, Ireland, and former Detective Superintendent in the Lancashire Constabulary, United Kingdom (expert)
- Clive MEUX, consultant forensic psychiatrist, Oxford, United Kingdom (expert)
- Aram BAYANDURYAN (interpreter)
- Anahit BOBIKYAN (interpreter)
- Gevork GEVORKYAN (interpreter)
- Vahe MKRTCHYAN (interpreter)
- Levon SHAHZADEYAN (interpreter).

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<sup>1</sup> The reports on the two previous periodic visits, in 2002 and 2006, as well as the reports on two ad hoc visits carried out by the CPT to Armenia, in 2004 and 2008, have been made public at the request of the Armenian authorities, together with their responses (see CPT/Inf (2004) 25, CPT/Inf (2004) 26, CPT/Inf (2004) 27, CPT/Inf (2006) 38, CPT/Inf (2006) 39, CPT/Inf (2007) 47 and CPT/Inf (2007) 48, CPT/Inf (2010) 7 and CPT/Inf (2010) 8).

**B. Establishments visited**

3. The delegation visited the following places:

Police establishments

- Detention Facility of Yerevan City Police Department
- Kentron District Police Division, Yerevan
- Nor Nork District Police Division, Yerevan
- Shengavit District Police Division, Yerevan
- Abovyan Police Division
- Armavir Police Division
- Charentsavan Police Division
- Echmiatzin Police Division
- Gavar Police Division
- Martuni Police Division
- Sevan Police Division
- Vardenis Police Division

Military establishments

- Isolator of the Military Police Headquarters, Yerevan
- Disciplinary Isolator of Yerevan Military Police Division
- Hrazdan Military Disciplinary Battalion (solitary confinement cells)
- Disciplinary Isolator of Sevan Military Police Division, Martuni

National Security Service establishments

- Detention Facility of the National Security Service Headquarters, Yerevan

Prison Service establishments

- Kosh Prison
- Nubarashen Prison
- Prison Hospital (psychiatric ward)
- Vardashen Prison

The delegation also examined the situation of life-sentenced prisoners at Yerevan-Kentron Prison.

Psychiatric establishments

- Nubarashen Republican Psychiatric Hospital (Secure Unit)
- Yerevan Nork Centre of Mental Health

Social care homes

- Vardenis Nursing Home (“Internat”).

**C. Consultations held by the delegation and co-operation encountered**

4. During the visit, the CPT's delegation held consultations with Gevork DANIELYAN, Minister of Justice, Nikolay ARUSTAMYAN, Deputy Minister of Justice, Hunan POGHOSYAN, First Deputy Head of the Police Service, Artur OSIKYAN, Deputy Head of the Police Service, Aleksandr GHUKASYAN, Deputy Minister of Health, Ara NAZARYAN, Deputy Minister of Defence, as well as with other senior Government officials. It also had a meeting with Aghvan HOVSEPYAN, Prosecutor General, and Andranik MIRZOYAN, Head of the Special Investigation Service. Further, it met Armen HARUTYUNYAN, Human Rights Defender.

Discussions were also held with representatives of international and non-governmental organisations active in areas of concern to the CPT.

A list of the governmental authorities, other authorities and international and non-governmental organisations with which the delegation held consultations is set out in Appendix II to this report.

5. The co-operation provided to the CPT's delegation, both from the national authorities and from staff at the establishments visited, was generally of a very good level. On the whole, the delegation enjoyed rapid access to the places visited (including ones not notified in advance) and was able to speak in private with persons deprived of their liberty, in compliance with the provisions of the Convention. Further, the delegation was generally provided with the necessary documentation and additional requests for information made during the visit were promptly met.

There were, however, several exceptions to the above-mentioned very good co-operation. The delegation was provided with an incomplete list of establishments; in particular, district police divisions in Yerevan were not included in it, although, by law, persons can be held in such establishments for up to three hours (and de facto are occasionally held in them for much longer periods). The CPT trusts that future delegations of the Committee will be provided with full and up-to-date lists of all places where persons may be deprived of their liberty, even for a short period of time, in accordance with Article 8, paragraph 2 (b) of the Convention.

Further, the delegation encountered certain difficulties when it went for a second time to Kentron District Police Division in Yerevan; it gained access to that establishment only after a delay of some 20 minutes and could not obtain all the information and documentation requested. Such a situation is clearly in contradiction with the principle of co-operation laid down in Article 3 and, in particular, with Article 8, paragraph 2 (c) and (d) of the Convention. The CPT urges the Armenian authorities to ensure that difficulties of this type are not encountered in future.

6. As emphasised by the CPT in the report on the visit in 2006, the principle of co-operation set out in Article 3 of the Convention is not limited to steps taken to facilitate the task of visiting delegations. It also requires that decisive measures be taken in response to the Committee's recommendations. By contrast, persistent failure to take action upon the CPT's recommendations could be considered as raising an issue under Article 10, paragraph 2, of the Convention.<sup>2</sup>

In this respect, the CPT is concerned that a number of positive developments have been overshadowed by little or no progress in several key areas. For instance, the Committee noted that material conditions of detention in police establishments had been further improved; however, the treatment of persons detained by the police had remained a serious problem. Further, whereas there appeared to be a change for the better in the attitude of prison staff towards inmates sentenced to life imprisonment, conditions of detention of the general prison population continued to be a matter of grave concern. As regards psychiatric establishments, the CPT noted that shutters attached to dormitory windows in the Prison Hospital's psychiatric ward and Nubarashen Psychiatric Hospital's Secure Unit had been removed, guard dogs were no longer deployed in the courtyard of Nubarashen Psychiatric Hospital's Secure Unit and new regulations on the use of restraints had been adopted; that said, almost no improvements were observed with respect to the provision of psychiatric care and the implementation of legal safeguards for involuntary hospitalisation of civil psychiatric patients. **The CPT calls upon the Armenian authorities to take effective steps, on the basis of detailed action plans, to improve the situation in the light of the Committee's recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention.**

7. At the end of its visit, the CPT's delegation met representatives of the Armenian authorities in order to acquaint them with the main facts found during the visit. On this occasion, the delegation expressed concern with regard to the situation of two prisoners sentenced to life imprisonment held in cells Nos. 18 and 21 at Yerevan-Kentron Prison. The delegation requested to be provided, within two months, with (i) the results of a detailed independent psychiatric assessment of the prisoners concerned and (ii) a report on steps taken to improve the material conditions of detention and the regime of those prisoners.

The above-mentioned requests were subsequently confirmed in a letter of 3 June 2010 from the President of the CPT. By letter of 6 September 2010 and in a communication of 9 September 2010, the Armenian authorities informed the Committee of measures taken in response to those requests and provided other comments in reply to the delegation's preliminary observations. This information will be considered later in the report.

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<sup>2</sup> Pursuant to Article 10, paragraph 2, of the Convention, "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter".

**D. Development of a National Preventive Mechanism**

8. The CPT notes that steps have been taken to set up a National Preventive Mechanism (NPM), in order to comply with Armenia's obligations under the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In 2008, this task was assigned to the Office of the Human Rights Defender. At the time of the 2010 visit, action was being taken to involve representatives of civil society in the work of the NPM, in particular through the establishment of a Council for the Prevention of Torture. **The CPT would like to receive up-to-date information on this matter.**



## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Police establishments

#### 1. Preliminary remarks

9. It should be recalled that a criminal suspect may be held in police custody for up to 72 hours following de facto deprivation of liberty,<sup>3</sup> within which time he must be brought before a judge deciding on the application of the measure of remand in custody, other procedural preventive measures or release. The protocol of detention should be drawn up within three hours of the moment the person concerned has been taken to the “body of inquiry”, investigator or prosecutor.<sup>4</sup>

During the 2010 visit, the CPT’s delegation found that the time-limit of 72 hours was generally respected. The usual practice described by police staff interviewed was for an apprehended person to be taken first of all to offices for questioning by operational officers, the protocol of detention being drafted at a later stage.<sup>5</sup> The delegation came across many instances where the period of deprivation of liberty preceding the drawing-up of the protocol of detention considerably exceeded three hours (i.e. up to some 70 hours following apprehension). It became apparent that this period of time was frequently used to elicit confessions and/or collect evidence before the apprehended person was formally declared a criminal suspect and informed of his or her rights. This practice entails a heightened risk of ill-treatment. **The CPT calls upon the Armenian authorities to take steps to ensure that the protocol of detention is drawn up without delay following apprehension. Further, measures should be taken to ensure that protocols of detention refer to the time of apprehension and of admission to a police establishment (in addition to the time of the commencement of drawing up the protocol of detention).**

10. According to Armenian legislation, persons remanded in custody should not be held in police detention facilities for more than three days, except in event of objective transport difficulties.<sup>6</sup> It appeared during the 2010 visit that most persons remanded in custody were transferred to a prison establishment within three days. That said, the delegation spoke to a few persons who had been detained on police premises for up to two weeks. The CPT must emphasise that, in the interests of the prevention of ill-treatment, the sooner a criminal suspect passes into the hands of a custodial authority which is functionally and institutionally separate from the police, the better. **The Committee recommends that the Armenian authorities ensure that persons remanded in custody are promptly transferred to a prison establishment. In the CPT’s view, any further police questioning which may be necessary should as far as possible be carried out in prison** (as regards police questioning, see the recommendations made in paragraph 18).

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<sup>3</sup> See, in particular, Section 11 (3) and Section 138 of the Code of Criminal Procedure.

<sup>4</sup> See Section 131<sup>1</sup> of the Code of Criminal Procedure.

<sup>5</sup> In their letter of 6 September 2010, the Armenian authorities referred to the possibility offered to police officers to take “explanations” from apprehended persons or to subject them to an “operative inquiry” before a protocol of detention is drawn up.

<sup>6</sup> See Section 137 (4) of the Code of Criminal Procedure and Section 6 of the Law on the Treatment of Arrestees and Detainees.

11. In the course of the visit, the delegation received many allegations of police officers asking detained persons (or their relatives) for money in exchange for arranging their release. Further, there was a widespread perception among the detained persons interviewed by the delegation that a number of benefits could be obtained through bribes; this is in itself a matter of concern. **The CPT recommends that the Armenian authorities deliver to all police officers, including through ongoing training, the clear message that those having abused their position in order to obtain money from persons deprived of their liberty or their relatives will be the subject of criminal proceedings. More generally, reference is made in this respect to the recommendations made by the Council of Europe's Group of States against Corruption (GRECO).**<sup>7</sup>

## 2. Torture and other forms of ill-treatment

12. During the 2010 visit, the delegation heard a significant number of credible and consistent allegations of recent physical ill-treatment of detained persons by police operational staff and, occasionally, by senior officers, at the time of initial interviews (i.e. before a protocol of detention was drawn up).<sup>8</sup> The alleged ill-treatment mainly consisted of punches, kicks and blows inflicted with truncheons, bottles filled with water or wooden bats, with a view to securing confessions or obtaining other information. In several instances, the severity of the ill-treatment alleged was such that it could be considered as amounting to torture (e.g. extensive beating; infliction of electric shocks with stun batons; blows to the soles of the feet). Further, many persons, including persons interviewed by the police as witnesses, alleged that they had been subjected to oppressive interviewing methods (e.g. sustained questioning by as many as eight interviewers; threats of being physically ill-treated or executed, or of repercussions for family members) in order to compel them to make statements or to act as police informants. Most of the persons who indicated that they had not been ill-treated during such interviews generally attributed this to the fact that they had been apprehended in the act of committing an offence or had immediately signed the statements expected from them by police officers.

The delegation also received some allegations of excessive use of force at the time of apprehension during a large-scale police operation carried out on 17 April 2010 in the Nor Nork district of Yerevan. The operation, which led to the apprehension of some 50 persons, was carried out by several police forces, including masked police officers who apparently had neither identification numbers nor insignia on their uniforms.<sup>9</sup> In another case, one person interviewed by the delegation had allegedly lost consciousness during apprehension as a result of the application of an electric stun baton.

On a positive note, no allegations of ill-treatment were received as regards custodial staff working in police detention facilities.

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<sup>7</sup> See GRECO Evaluation and Compliance Reports on Armenia ([www.coe.int/t/dghl/monitoring/greco](http://www.coe.int/t/dghl/monitoring/greco)).

<sup>8</sup> Note should be taken that the persons interviewed agreed to share their experiences while at the hands of the police on the condition that their names would not be disclosed.

<sup>9</sup> The operation involved police officers from the Yerevan City Police Department and Nor Nork District Police Division, the Police Patrol and Protection Department (the so-called "Red Berets") and the Anti-Organised Crime Police Department. The delegation learned that officers from the Anti-Organised Crime Police Department may wear masks during such interventions.



13. The case of Vahan KHALAFYAN, who died in police custody on 13 April 2010, is illustrative of the problem of ill-treatment; it had received extensive media coverage in Armenia. At the time of the visit, the evidence gathered during the preliminary investigation into this case already clearly indicated that Mr Khalafyan had been held at Charentsavan Police Division for some seven hours without a protocol of detention being drawn up, and that he had been subjected to severe beatings during questioning by four police officers, including the Head of the Criminal Investigation Unit. Mr Khalafyan reportedly took a knife from the wardrobe next to where he was sitting and stabbed himself twice in the lower stomach. The post-mortem examination established that he had died from these injuries but also revealed numerous other injuries which were consistent with an assault upon him prior to the fatal stab wounds being inflicted (i.e. bruises on the scalp on the top of the head, with corresponding evidence of bleeding to the brain, as well as inside the mouth, on the lower jaw, behind the right knee, on the right shin and on the front of the right ankle).<sup>10</sup>

14. Police staff interviewed (including operational officers) fully acknowledged that ill-treating persons in their custody is unacceptable from both the legal and professional points of view. That said, senior police officials met by the delegation indicated that police misconduct continued to be a problem and that they were making efforts to overcome it and increase public confidence in the police. In the CPT's view, the primary responsibility for bringing about change on this issue and enhancing public trust rests with the police leadership, who should promote a culture within the Police Service where the right thing to do is to report ill-treatment by colleagues. **The Committee calls upon the Armenian authorities to deliver a firm message of "zero tolerance" of ill-treatment, at regular intervals, to all police officers, through the adoption of a statement from the highest level. As part of this message, it should be made clear that any police officer committing, aiding and abetting or tolerating ill-treatment, in any form, will be severely punished. Further, police staff should be reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for striking them. At the same time, action to treat persons in custody humanely should be positively recognised.**

15. It appeared that, following the 2008 events,<sup>11</sup> the Police Service had engaged upon a multi-faceted strategy to address the problem of ill-treatment. In particular, legislative amendments were adopted in 2009 in order to improve the reporting mechanism for the use of force and "special means" (including electric stun devices). A police officer who has used force, "special means" or firearms must report this without delay to a higher police authority and any instances of injury or death must be immediately reported to the prosecuting and health-care authorities.<sup>12</sup> Further, the delegation was informed that stringent criteria for the use of force and "special means" were being developed, in the light of international standards. **The CPT would like to receive, in due course, a copy of the relevant legal provisions or instructions.**

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<sup>10</sup> See also paragraph 22. Note should be taken in this regard that, shortly after a preliminary investigation into this case was initiated, the Head of the Police Service indicated to the media that Mr Khalafyan was not ill-treated by the police. He later stated that he had been misled by his staff.

<sup>11</sup> In the aftermath of the 2008 presidential election, a police operation took place on 1 March 2008 with a view to dispersing opposition rallies in Yerevan. Dozens of persons were arrested in the course of and following that operation, hundreds were injured and a number of persons died. For more details, see the CPT's report on the 2008 visit and the Government's response (documents CPT/Inf (2010) 7 and CPT/Inf (2010) 8).

<sup>12</sup> See Section 29 of the Police Act, as amended in April 2009.

16. The “special means” at the disposal of police officers in the establishments visited included electric stun batons. In this context, the CPT is concerned by the wide range of situations in which the use of these weapons is authorised. For instance, recourse to such weapons for the sole purpose of securing compliance with an order is unacceptable.<sup>13</sup> Further, the delegation’s findings from the visit suggest that appropriate supervision of their use was seriously lacking. The Committee must stress that electric stun devices can cause acute pain and lend themselves to misuse. Recourse to such weapons should be limited to situations where there is a real and immediate threat to life or risk of serious injury. Police officers to whom stun devices are to be issued should be specifically selected and suitably trained,<sup>14</sup> and they should receive detailed instructions concerning the use of these weapons. It is also essential that the legal reporting obligations contained in the Police Act do not amount simply to a formality but lead instead to close monitoring of the use of stun devices by the competent police, prosecuting and health-care authorities. **The CPT recommends that the use of electric stun devices be reviewed, in the light of the above remarks.<sup>15</sup> The relevant laws and regulations should be amended accordingly.**

Further, **the Committee would like to receive, for the years 2009 and 2010, the following information:**

- (i) the number of recorded instances of recourse to “special means”, in particular electric stun devices, by police officers;**
- (ii) the number of injuries and deaths reported to the competent authorities following recourse to such means.**

17. In the report on the 2008 visit, the CPT expressed the view that only exceptional circumstances can justify measures to conceal the identity of police officials while carrying out their duties. Where such measures are applied, appropriate safeguards must be in place in order to ensure that the officials concerned can subsequently be held accountable for their actions (e.g. by means of a clearly visible number on the uniform). In the course of the 2010 visit, the delegation was informed that, in order to increase supervision of police activities during high-risk operations and ensure better identification of individual police officers wearing masks, new uniforms for members of special police forces, with identification numbers, were being designed at the time of the visit. **The Committee would like to receive detailed information on this subject, including on the special police forces to which these uniforms will be issued.**

18. According to information provided to the delegation, a police reform programme for the years 2010-2011 has been drawn up. It includes steps aimed at developing more advanced crime investigation methods and reviewing initial and in-service training. Indeed, the delegation’s findings from the 2010 visit indicate that enhanced training of police operational officers and investigators and a review of procedures and arrangements for police interviews of suspects are called for.

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<sup>13</sup> Pursuant to Section 31 of the Police Act, electric stun devices may be used “to overcome disobedience or to prevent resistance to police officers or persons assisting the police in maintaining public order and combating crime while performing their public or official duties”.

<sup>14</sup> Training should include information on the circumstances under which it is inappropriate to use them for medical reasons as well as on emergency care.

<sup>15</sup> See also paragraphs 65-84 of the 20<sup>th</sup> General Report on the CPT’s activities.

In the CPT's view, professional training for police operational officers and investigators should place particular emphasis on a physical evidence-based approach, thereby reducing reliance on information and confessions obtained through questioning for the purpose of securing convictions. In particular, improved initial and in-service training should be given on the seizure, retention, packaging, handling and evaluation of forensic exhibits and continuity issues pertaining thereto. Further, investment should be made to ensure ready access to up-to-date scientific tools, such as DNA technology and automated fingerprint identification systems. **The Committee recommends that these considerations be fully taken into account when implementing future police reform projects.**

In parallel, specific training in advanced, recognised and acceptable interviewing techniques should be regularly provided to the police officers concerned. The facility to research the background of a person (including previous contact with the police and relevant history) should be made available to the police officers prior to questioning. Further, as a rule, police interviews should be conducted by one or two interviewers, in rooms specifically equipped and designed for the purpose. A system of ongoing monitoring of police interviewing standards and procedures should also be implemented; this would require an accurate recording of police interviews which, if possible, should be conducted with electronic (i.e. audio and/or preferably video) recording equipment. It should also be required that a record be systematically kept of the time at which interviews start and end, of any request made by a detainee during an interview, and of the persons present during each interview. **The CPT recommends that measures be taken to review training, procedures and arrangements for police interviews, in the light of the preceding remarks.**

19. It appeared during the 2010 visit that action was being taken to establish more effective internal and external complaints mechanisms aimed at fostering police ethics and discipline. According to senior police officials met by the delegation, the setting-up of a Police Public Council and phone hotlines aimed at facilitating prompt reporting of cases of police misconduct resulted in an increase in the number of complaints of police ill-treatment received by the Police Service (from 131 in 2008 to 245 in 2009) and in the number of officers subjected to disciplinary sanctions (from 16 in 2008 to 51 in 2009). However, it is noteworthy that, following these complaints/sanctions, only two police officers had been sentenced to imprisonment in 2008 and one police officer in 2009.<sup>16</sup>

Further, the Armenian authorities were taking steps to establish an external complaints commission empowered to examine cases of abuse by public officials<sup>17</sup> and to make recommendations for disciplinary action to the competent authorities. A Council of Europe expert opinion on the draft regulation was submitted to the Armenian authorities in April 2010. **The CPT trusts that the Council of Europe expert opinion will be taken into account when setting up this new mechanism and that determined action, including through appropriate funding, will be taken to ensure that it is, and is seen to be, independent and impartial. Given that police misconduct may entail elements of both disciplinary and criminal offences, close co-operation with bodies in charge of criminal investigations should be encouraged.**

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<sup>16</sup> See, in this connection, Section II.A.3 as regards criminal investigations.

<sup>17</sup> Including police, National Security Service and prison staff.

### 3. Investigations into cases possibly involving ill-treatment by the police

20. If police ill-treatment remains unchallenged by the criminal justice system, such conduct can easily become an accepted feature of police practice. It is therefore crucial that the authorities responsible for the carrying out of preliminary investigations and criminal proceedings take effective action when any information indicative of possible ill-treatment comes to light.

The criteria which an investigation into cases of alleged ill-treatment must meet in order to be qualified as “effective” have been established through an abundant case-law of the European Court of Human Rights, and were already highlighted in the report on the visit in 2008.<sup>18</sup> In particular, the investigation should be *thorough*, it should be conducted in a *prompt* and *expeditious* manner, and the bodies responsible for carrying out the investigation should be *independent* of those implicated in the events. Genuine endeavours by the competent authorities to meet these requirements and uphold the rule of law will have an important dissuasive effect on those minded to ill-treat persons deprived of their liberty.

21. In late 2007, a separate agency specialised in the investigation of cases possibly involving abuses by public officials, the Special Investigation Service (SIS), was established.<sup>19</sup> At the time of the 2010 visit, the SIS seemed to be reasonably staffed and could access personnel from other agencies to work under its direction.<sup>20</sup> The visit provided an opportunity to examine the manner in which certain investigations into cases involving allegations of ill-treatment of persons in police custody were carried out by the SIS. In the following paragraphs, two cases will be described.

22. Reference has already been made to the alleged ill-treatment and death in custody of Vahan Khalafyan (see paragraph 13). Shortly after his death, a post-mortem examination of the body was carried out, in the presence of a relative, and SIS staff had examined the relevant custody records and documentation of Charentsavan Police Division. Further, potential witnesses (e.g. other persons apprehended on 13 April, police officers on duty during that day) as well as possible suspects (e.g. operational officers who had apprehended and/or questioned him) were promptly interviewed. It is noteworthy that those witnesses and suspects with whom the delegation spoke made a positive assessment of the behaviour of SIS staff in the conduct of the interviews. It appeared that particular attention was paid during the preliminary investigation to possible ill-treatment of other persons deprived of their liberty who had been at Charentsavan Police Division on that day. Moreover, the SIS took action to collect forensic evidence.

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<sup>18</sup> See paragraph 21 of CPT/Inf (2010) 7. See also paragraphs 25-42 of the 14<sup>th</sup> General Report on the CPT’s activities.

<sup>19</sup> The Law instituting the SIS entered into force on 1 December 2007. The Head of the SIS is appointed by the President of the Republic, upon recommendation of the Prosecutor General. Together with a deputy appointed by him, he manages a team of 25 special investigators.

<sup>20</sup> All special investigators’ posts were filled at the time of the visit. Further, the SIS can be supported by the internal security services of the various law enforcement agencies (in such cases, the usual practice as described to the delegation is to ask support from the internal security service of one particular law enforcement agency to investigate into alleged offences committed by members of another agency).

All these steps permitted the SIS to gather evidence that Vahan Khalafyan had been assaulted by police staff during questioning. At this stage of the investigation, it was also established that he subsequently committed suicide (or at least intended to inflict serious injuries on himself) with a knife found in the office where he was questioned. Within two weeks following the death of Mr Khalafyan, four criminal suspects had been identified among police staff and two of them had been remanded in custody, including the then Head of the Criminal Investigation Unit at Charentsavan Police Division. The latter was charged under Section 309 (1), (2) and (3) of the Criminal Code for having exceeded his official powers with recourse to violence leading to serious consequences.<sup>21</sup>

The emphasis on transparency during the preliminary investigation process should also be placed on record; the SIS made regular statements to the press to inform the public of the status of the ongoing investigation.

Consequently, the delegation reached the conclusion that the action taken by the SIS at that stage of its preliminary investigation was prompt, expeditious and thorough given the resource limitations and the difficulties typically encountered in investigations of this type. The SIS senior investigator responsible for this case had been methodical, and had a clear and unequivocal stance on the accountability of his role. It also appeared that all realistic lines of inquiry had been explored. The manner in which this preliminary investigation was carried out should serve as a good example for other cases of alleged police ill-treatment regardless of whether they attract media attention. **The Committee would like to receive detailed information on the outcome of this case.**

23. As regards investigations into allegations of ill-treatment in the context of the March 2008 events, the delegation's assessment of the action taken by the SIS is less positive. The case of "A",<sup>22</sup> who was allegedly beaten by law enforcement officials on 5 and 6 March 2008, deserves specific mention in this respect. In the report on the 2008 visit, the CPT made a specific recommendation to the Armenian authorities to carry out an effective investigation into this case.

It should be recalled that "A" was summoned to Marash District Police Division in Yerevan on 4 March 2008 for having reportedly hit a police officer in the course of the events of 1 March. It appeared from the examination of the case-file that a forensic medical examination of "A" was carried out on 26 March 2008, at the specific request of his lawyer. On examination, the forensic doctor concluded that the one-centimetre-long scar on the right eyebrow observed on "A" possibly resulted from a blow inflicted by a blunt, hard object on 5-6 March 2008. Reference should also be made to a medical certificate drawn up on his admission to Vardashen Prison on 10 March 2008, which indicated that the injury in question had possibly been sustained four days previously (i.e. on 6 March 2008).

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<sup>21</sup> Such offences are punishable by imprisonment of up to 10 years, one of the most severe punishments in cases of police ill-treatment. The other three officers were charged under Section 308 (1) of the Criminal Code (abuse of official authority). It should also be noted that, within the framework of a Police Service internal inquiry, six police officers, including the four staff members charged with criminal offences and the Head of Charentsavan Police Division, received disciplinary sanctions.

<sup>22</sup> See paragraphs 13 and 14 of CPT/Inf (2010) 7. In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the name of the person concerned has been deleted.

Despite this medical evidence, the SIS considered that the injury in question had been sustained in the course of the events of 1 March 2008 and that there was no reason to initiate criminal proceedings. To reach that conclusion, it relied heavily on police reports, in particular a statement dated 6 March 2008 according to which “A” indicated during examination by health-care staff at the Detention Facility of Yerevan City Police Department that the injury observed on the right eyebrow had been sustained before his arrival at the police station; this statement was signed by two police officers, the police feldsher who carried out the examination and “A” himself. Such a statement clearly suggests that police officers were present during the medical examination of “A”, which calls into question the reliability of the statement made by the person concerned.<sup>23</sup>

It also emerged from the examination of the case-file that, according to “A”, the alleged ill-treatment had taken place on the premises of the SIS, in the presence and even with the involvement of SIS staff. Since the investigation into the alleged ill-treatment was conducted by the SIS, the person responsible for the investigation cannot be seen as independent from those possibly implicated in the events.

In short, the delegation’s examination of this case revealed shortcomings in the manner in which the preliminary investigation was conducted, in particular: failure to give due weight to forensic medical findings consistent with allegations of ill-treatment and failure to observe the basic requirement of independence. **The CPT recommends that this investigation be re-opened.**

24. In the report on its 2008 visit, the CPT recommended that the investigations into the events of 1 March 2008 be conducted in accordance with the criteria of an effective investigation.<sup>24</sup> However, according to senior police officials met at the outset of the 2010 visit, the SIS investigations had relied on the results obtained by the police internal security service. Two junior-rank and two middle-rank police officers were sentenced to imprisonment (on account of abuse of official authority), but none of them served prison sentences as a result of a general amnesty (which concerned first-time offenders over a period of 10 months in 2008).<sup>25</sup> **The Committee would like to receive the remarks of the Armenian authorities on this subject.**

25. More generally, the CPT’s delegation gained the impression that the SIS had faced and was still facing a lack of confidence in its oversight of the activities of law enforcement agencies. More specifically, the detained persons interviewed during the 2010 visit who alleged police ill-treatment indicated that they did not wish to make an official complaint for fear of serious repercussions on the ongoing criminal investigations against them.

26. In the light of the above, **the CPT recommends that increased emphasis be placed on the structural independence of the SIS and the existence of transparent procedures in order to enhance public confidence.** Further, **direct, confidential, access to the SIS for persons alleging ill-treatment should be ensured.**

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<sup>23</sup> See also paragraph 35 as regards police feldshers.

<sup>24</sup> See paragraph 21 of CPT/Inf (2010) 7.

<sup>25</sup> See, in this connection, footnote 11 of the present report and the CPT’s findings described in paragraphs 12 and 13 of CPT/Inf (2010) 7.

In order for the Committee to obtain a full and up-to-date picture of the situation, **it would like to receive the following information in respect of 2009 and 2010:**

- **the number of complaints of ill-treatment by police officers;**
- **the number of SIS investigations instituted as a result of these complaints;**
- **an account of any criminal sanctions imposed.**

Further, the CPT would like to receive up-to-date information on progress towards the development of a centralised statistical database of complaints of ill-treatment of persons detained by law enforcement agencies.<sup>26</sup>

27. The CPT must stress once again the important role of judges before whom persons are brought in view of the application of procedural preventive measures; they are ideally placed to ensure that investigations into cases of possible ill-treatment are promptly initiated. As on previous visits, the delegation received allegations from detained persons that judges had ignored the injuries displayed by them and/or their complaints about recent ill-treatment by the police. **The CPT reiterates its recommendation that judges be reminded, by the highest judicial authorities and/or, if necessary, through the adoption of relevant legal provisions, that they should take action whenever a person brought before them alleges that he or she has been subjected to violence by the police. Even in the absence of an express allegation of ill-treatment, the judge should ensure that a forensic medical examination is requested whenever there are other grounds (e.g. visible injuries, a person's general appearance or demeanour) to believe that ill-treatment may have occurred.**

#### **4. Procedural safeguards against police ill-treatment**

28. The observations made in the report on the 2006 visit as regards the three fundamental safeguards against ill-treatment advocated by the CPT, namely the rights of detained persons to inform a close relative or another third party of their choice of their situation and to have access to a lawyer and a doctor, remain largely valid. The delegation's findings suggest that hardly any improvement has been made to the legal framework in relation to these safeguards; moreover, there continues to be a gap between the practice and the legal provisions currently in force.

29. As concerns notification of custody, Section 5 of the Police Act<sup>27</sup> places an obligation on police officers to inform the detained person's relatives of his or her situation within three hours of arrival on police premises. At the same time, Section 63-2 (9) of the Code of Criminal Procedure (CCP)<sup>28</sup> continues to refer to a maximum period of twelve hours during which close relatives should be notified. **The CPT would like to receive clarification as to the applicable legal provisions in this respect.**

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<sup>26</sup> See, in this connection, paragraph 16 of CPT/Inf (2008) 7.

<sup>27</sup> As amended on 1 June 2006.

<sup>28</sup> As amended on 23 May 2006.

A number of detained persons interviewed in the course of the 2010 visit indicated that they had not been informed of the right of notification of custody. Further, several persons alleged that no explanations had been given to them of the refusal to notify a relative of their situation. As a result, many detained persons with whom the delegation spoke had not been put in a position to exercise this right until a protocol of detention was drawn up (which, in practice, could happen up to three days following apprehension) or until such time as they were admitted to a police detention facility or brought before a judge.

**The CPT reiterates the recommendation made in the report on the 2008 visit that all detained persons should effectively benefit from the right of notification of custody as from the very outset of de facto deprivation of liberty. Further, any possibility to delay the exercise of the right of notification of custody should be clearly circumscribed in law and made subject to appropriate safeguards (e.g. any delay to be recorded in writing with the reasons therefor, and to require the approval of a senior police officer unconnected with the case at hand or a prosecutor) and strictly limited in time.**

30. It should be recalled that, according to Section 63-2 (4) of the CCP, a criminal suspect has the right to have access to a lawyer as from the moment of drawing up of a protocol of detention. During the 2010 visit, a number of detainees indicated that they had been informed of this right only when the protocol of detention was drawn up and, as a result, had had no possibility of consulting a lawyer prior to and during initial police interviews. Moreover, some persons claimed that they had been refused access to a lawyer until the first court hearing; in this context, it is noteworthy that the lawyer's name and signature was found to be missing in several of the protocols of detention examined by the delegation.

After the visit, by letter of 6 September 2010, the Armenian authorities indicated that special police instructions had been adopted on 29 April 2010 to ensure that apprehended persons were offered an opportunity to have a lawyer present during any police interviews conducted in the period preceding the drawing-up of a protocol of detention.

**The CPT calls upon the Armenian authorities to ensure that the right of access to a lawyer for persons deprived of their liberty applies effectively as from the very outset of their de facto deprivation of liberty by the police. If necessary, the relevant legal provisions should be amended.**

31. In previous visit reports, the CPT had recommended that steps be taken to make the system of legal aid truly effective and to ensure that *ex officio* lawyers were independent of the police and the prosecution service. In response, the Armenian authorities indicated that the Ministry of Justice and the Bar Association had established a working group to improve the implementation of the Law on Advocacy and discuss possible amendments. **The CPT would like to receive up-to-date information on this matter.**

32. The delegation was informed that witnesses were now entitled to be accompanied by a lawyer when they went to a police station for an interview. This is a positive development. However, it emerged during the 2010 visit that this possibility had generally not been explained to the persons concerned. **The Committee recommends that witnesses summoned to a police establishment are systematically made aware of the possibility to be assisted by a lawyer of their choice during any police interviews.**



33. With respect to the right of access to a doctor (including of the detained person's choice), no changes have been made to the legislation to ensure that this right applies as from the outset of de facto deprivation of liberty. During the visit, the delegation heard allegations that access to a doctor had been significantly delayed (i.e. for up to several days), despite repeated requests. Such situations not only deprive detained persons of a safeguard which can play a significant role in the prevention of ill-treatment, but may also have serious repercussions for the health of persons in police custody. Clearly, access to a doctor should not be left to the discretion of police officers.

Moreover, it emerged during the visit that medical examinations were frequently carried out in the presence of police staff and that medical certificates were accessible to non-medical staff.

A few detained persons interviewed by the delegation indicated that they had been examined by a forensic medical doctor. However, such examinations apparently had in practice to be authorised by a police investigator, despite the provisions of Section 15 of the Law on the Treatment of Arrestees and Detainees.<sup>29</sup>

34. In the light of the above, the CPT refers to the recommendations made in the reports on the 2006 and 2008 visits, and **calls upon the Armenian authorities to take measures, including of a legislative nature, to make it clear that:**

- **the right of access to a doctor applies as from the moment of de facto deprivation of liberty;**
- **medical examinations of detained persons should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers;**
- **the results of every examination, as well as any relevant statements by the detained person and the doctor's conclusions, should be formally recorded by the doctor and made available to the detainee and, upon request, his or her lawyer;**
- **whenever injuries are recorded by a doctor which are consistent with possible ill-treatment, the record should be systematically brought to the attention of the relevant prosecutor.**

Further, whenever a detained person presents injuries and makes allegations of ill-treatment, he or she should be promptly seen by an independent doctor with recognised forensic training who should draw conclusions as to the degree of consistency between the allegations made and the objective medical findings. The detained person should be entitled to such an examination without prior authorisation from an investigator, prosecutor or judge.

Measures should also be taken to ensure that the confidentiality of medical documentation is strictly observed. Naturally, health-care staff examining persons detained by the police may inform police officers on a need-to-know basis about the state of health of a detained person, including medication being taken and particular health risks.

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<sup>29</sup> Pursuant to Section 15 of the Law, a detained person, or his lawyer (with the consent of his or her client), has the right to request a forensic medical examination.

35. Many persons detained by the police in Yerevan indicated that they had been examined in the first instance by health-care staff at the Detention Facility of the Yerevan City Police Department. The presence of feldshers in this establishment on a 24-hour basis is a positive element. However, the CPT has misgivings about the formal position of these feldshers, who are members of the police force. In order to guarantee their independence, **the Committee considers it important that health-care staff working in police detention facilities be aligned as closely as possible with the mainstream of health-care provision in the community at large.**

36. It clearly appeared during the visit that information on rights was still not provided as from the very outset of deprivation of liberty. Many persons interviewed indicated that they had not had their rights explained to them before the drawing-up of a protocol of detention, being admitted to a police detention facility or brought before a judge. Forms on rights were generally available in Armenian at the police divisions visited, but virtually none of the persons with whom the delegation spoke had received a copy. As to the protocols of detention, they limited themselves to references to certain legal provisions (in particular, Section 63-2 (4) of the CCP on access to a lawyer); in this regard, the signature of the detained persons was often found to be missing under the heading on rights in the protocols consulted. Further, foreign nationals generally did not receive written information on rights in a language they understood.

**The CPT reiterates the recommendation made in the report on the 2008 visit that verbal information on rights be given systematically to all persons apprehended by the police, at the very outset of their de facto deprivation of liberty. As regards the information form on rights, it should be given systematically to all detained persons as soon as they are brought into a police establishment, and should be available in an appropriate range of languages.**

37. As regards custody registers, the delegation observed various deficiencies (e.g. missing time of apprehension and/or transfer/release, inaccurate or misleading information<sup>30</sup>).

The requirement that the fact of a person's deprivation of liberty be properly recorded is one of the most fundamental safeguards against ill-treatment. In addition to facilitating control over the observance of the legal provisions concerning police custody, the accurate recording of all aspects of a person's period of detention can protect police officers by countering false allegations made against them. **The CPT calls upon the Armenian authorities to ensure that custody registers are properly maintained, accurately record the times of actual apprehension, admission, placement in a cell, release or transfer, and reflect all other aspects of custody (precise location where a detained person is being held; visits by a lawyer, relative, doctor or consular officer; taking out of cell for questioning; any incidents related to a detained person, etc.).**

Further, **the CPT recommends that the competent prosecutors and senior police officials exercise effective supervision of the accuracy of custody registers in police establishments.**

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<sup>30</sup> For instance, at Kentron District Police Division in Yerevan, certain persons who were reportedly held in that establishment for up to 48 hours appeared in the registers as having been detained for three hours on each day.

38. The CPT is pleased to note that, in addition to supervising prosecutors and staff of the Office of the Human Rights Defender (see paragraph 8), a Public Monitoring Group has been carrying out frequent and unannounced visits to police establishments since 2006. However, the Group is not entitled to visit premises other than officially designated detention facilities. **The Committee recommends that the mandate of the Police Public Monitoring Group be extended so as to include any police premises where persons may be deprived of their liberty, even for a short period.**

## 5. Conditions of detention

39. The CPT notes with satisfaction that the refurbishment of police detention facilities has been pursued over the last few years. The detention facilities visited, including at Sevan Police Division,<sup>31</sup> had been renovated and generally offered good material conditions of detention. Cells were of an adequate size (e.g. single cells measured at least 6 m<sup>2</sup> and double-occupancy cells measured from 9 to 13.5 m<sup>2</sup>) and properly equipped (e.g. beds, table, stools, sink). Detainees were provided with proper bedding for overnight stays, had ready access to a toilet, could take a shower at regular intervals and were provided with basic personal hygiene items. As regards food, arrangements had been made to provide detained persons with three meals a day, including one warm meal. Further, all police detention facilities had outdoor exercise yards (measuring from 32 to 80 m<sup>2</sup> and including a sheltered area) and detained persons interviewed confirmed that they were allowed access to them every day. In several establishments visited, reading material and radio receivers were also made available to detainees.

However, the delegation observed that access to natural light was somewhat limited in the cells of many detention facilities visited (e.g. in Yerevan, Charentsavan, Martuni, Sevan and Vardenis), due to the small size of the windows, which were sometimes covered by several layers of metal netting. Further, in Gavar police detention facilities, the cells were poorly ventilated and the communal toilets were dirty. **The CPT recommends that these shortcomings be remedied.**

In addition, detainees held at the Detention Facility of Yerevan City Police Department were still not allowed to take outdoor exercise for more than 30 minutes a day. **The Committee reiterates its recommendation that all persons held in this facility for more than 24 hours be given the possibility to take at least one hour of outdoor exercise every day.**

40. Most police divisions visited, including district police divisions in Yerevan, were equipped with one or more holding cells, measuring only some 2 - 3 m<sup>2</sup> and intended for detention periods of up to three hours. Such cells were in a good state of repair, adequately lit and ventilated, and usually equipped with a means of rest. However, many detained persons interviewed alleged that they had been held overnight, for up to a few days, in these cells (sometimes together with another inmate). Further, some of the persons interviewed claimed that they had not been provided with food and/or that access to a toilet had been delayed.

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<sup>31</sup> In the previous visit reports, the CPT found that the Sevan Police Division's detention facility offered poor conditions of detention (see paragraph 44 of CPT/Inf (2004) 25 and paragraph 31 of CPT/Inf (2007) 47).

In the CPT's view, cells of such a size should only be used for very short periods of time and never for overnight stays. **The CPT calls upon the Armenian authorities to take urgent steps to ensure that the period of detention in holding cells does not exceed three hours.**

Further, it was apparently not uncommon for criminal suspects to be held in police offices and corridors for up to 24 hours (and, on occasion, even longer). **The CPT recommends that immediate measures be taken to ensure that corridors or offices are not used as a substitute for proper detention facilities.**

## **B. Military establishments**

### **1. Preliminary remarks**

41. The delegation visited four military establishments, which could accommodate servicemen held under criminal law and/or held under military disciplinary regulations. As was the case during the 2002 visit, the Isolator of the Military Police Headquarters in Yerevan was primarily used for the detention of military personnel under criminal law whereas the Disciplinary Isolator of Yerevan Military Police Division was exclusively holding servicemen under military disciplinary regulations.<sup>32</sup> The Disciplinary Isolator of Sevan Military Police Division in Martuni, which was visited by the CPT for the first time, was accommodating both categories of detainee. The delegation also went to the Disciplinary Battalion in Hrazdan, where the delegation focused its attention on the solitary confinement cells.

42. As regards servicemen held under criminal law, it should be recalled that criminal suspects may be held in military police custody for up to 72 hours,<sup>33</sup> after which they must be brought before a civilian judge deciding on the measure of remand in custody and subsequently be transferred to a penitentiary establishment. In this context, the delegation observed during the visit that servicemen remanded in custody could, on occasion, spend up to two months in military police detention facilities. **Reference is made in this context to the recommendation in paragraph 10.**

Servicemen awaiting the outcome of the appeal of their sentences or serving sentences of up to three months of deprivation of liberty (“arrest”) may also be detained in military police detention facilities.<sup>34</sup> Further, the judge may order the placement of conscripts and other military staff found guilty of criminal offences in a military disciplinary battalion for a period ranging from three months to three years. A breach of the disciplinary battalion’s internal regulations is punishable with up to 15 days of solitary confinement.<sup>35</sup>

43. Servicemen in disciplinary confinement could be held for a period of up to 10 days, to which an additional term of 10 days could be added in the event of breach of the house rules or negligence in the carrying out of their tasks whilst in disciplinary confinement.<sup>36</sup> At the outset of the visit, the delegation was informed by senior military officials that the Armenian Government was working on a new Military Disciplinary Code. One key aspect of the Code would be the replacement of the sanction of disciplinary confinement by transfer to a disciplinary company where the servicemen concerned would continue performing their military duties under a stricter regime. This would reportedly lead to a reduction in the number of military police detention facilities as they would be used to hold servicemen under criminal law only.

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<sup>32</sup> In the report on the 2002 visit, these facilities were referred to as the “Central Detention Centre in Yerevan” and the “Detention House of Yerevan Garrison”.

<sup>33</sup> See footnote 3.

<sup>34</sup> See Section 57 (3) of the Criminal Code.

<sup>35</sup> See Section 58 of the Criminal Code and Section 52 of the Penitentiary Code.

<sup>36</sup> See Sections 54 and 74 of the Disciplinary Statute of the Armed Forces of 12 August 1996. See also paragraph 4 of Appendix 14 of the Law on Approving the By-Laws of the Garrison Services and Patrol Services of the Armed Forces.

The CPT would like to receive up-to-date information on the planned changes and in particular on the measure of transfer to a disciplinary company. More specifically, the Committee wishes to know whether servicemen subjected to such a transfer would be locked up in the accommodation areas at specific times.

## 2. Ill-treatment

44. The delegation received no allegations of ill-treatment of servicemen who were, or had recently been, held in military police establishments.

In order for the CPT to obtain a full and up-to-date picture of the situation, the Committee would like to receive the following information in respect of 2009 and 2010:

- the number of complaints of ill-treatment made against military police staff;
- the number of criminal and disciplinary proceedings instituted as a result of such complaints;
- an account of any criminal and disciplinary sanctions imposed.

## 3. Safeguards

45. Servicemen suspected of having committed criminal offences should benefit from the same procedural rights as any other criminal suspects.<sup>37</sup> Most servicemen interviewed by the delegation were informed of their rights and had an opportunity to exercise them shortly after apprehension. However, a few persons with whom the delegation spoke complained that their right to inform a family member of their situation and their right of access to a lawyer had been delayed for up to 10 days. **Reference is made to the recommendations made in paragraphs 29-30.**

46. It appeared during the 2010 visit that safeguards in the context of disciplinary proceedings against military staff needed to be reinforced, in particular as regards the provision of information on the charges against them and possibilities of appeal to higher or outside authorities. The delegation's official interlocutors stressed that the adoption of the new Military Disciplinary Code should strengthen detainees' rights: for instance, servicemen would have the right of access to the case-file in the course of the disciplinary investigation and would have the right to appeal against the disciplinary sanctions imposed on them to a higher authority or a court.<sup>38</sup> Nevertheless, a number of safeguards appeared to be unclear or lacking (e.g. the rights to receive prompt information on the charges against them in writing, to be heard in person, to be given reasonable time to prepare for their defence, to have access to a lawyer and to receive a copy of the decision on the imposition of the measure, which should include straightforward information about the appeal procedures).

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<sup>37</sup> See paragraph 28 of the present report and paragraph 24 of the Recommendation CM/Rec (2010) 4 of the Council of Europe's Committee of Ministers on human rights of members of the armed forces.

<sup>38</sup> Sections 11 and 16 of the draft Military Disciplinary Code.

**The CPT trusts that the Armenian authorities will take legal and practical steps to ensure that servicemen facing disciplinary proceedings benefit from all appropriate safeguards, in the light of the preceding remarks and taking into consideration Recommendation CM/Rec(2010)4 of the Council of Europe's Committee of Ministers on human rights of members of the armed forces.**

47. As regards inspections by outside bodies, military prosecutors and staff of the Human Rights Defender's Office are entitled to visit military detention facilities. The CPT also notes that representatives of civil society had been granted access to these facilities under a specific monitoring programme; however, the military police was given advance notice of their visits. The CPT must stress that, to be fully effective, visits by monitoring groups should be both frequent and unannounced.

**The Committee invites the Armenian authorities to further develop the system of visits to military establishments by independent monitoring bodies.** Reference is made in this context to paragraph 8.

#### **4. Conditions of detention**

48. As regards material conditions in the military establishments visited, the CPT is pleased to note that the 14 cells of the Isolator of the Military Police Headquarters in Yerevan had been completely refurbished. They were of a reasonable size for their intended occupancy,<sup>39</sup> well-lit, adequately ventilated and clean.

The two single cells of the Military Disciplinary Battalion in Hrazdan measured about 6 m<sup>2</sup>. They were in an excellent state of repair and in-cell lighting (including access to natural light) and ventilation were good.

49. In contrast, the 12 cells of the Disciplinary Isolator of Yerevan Military Police Division were generally in a poor state of repair. Further, official occupancy rates were too high in the smaller cells (e.g. a cell of 8 m<sup>2</sup> was intended for three detainees)<sup>40</sup> and the windows of all cells had been fitted with frosted glass, which limited access to natural light. In response to the preliminary observations presented by the delegation at the end of the visit, the Armenian authorities informed the CPT by letter of 6 September 2010 that these cells had been renovated and that the cell windows had been replaced to improve access to natural light. This is a welcome development.

At the Disciplinary Isolator of Sevan Military Police Division in Martuni, the cells had good access to natural light and were clean. However, some of the cells were very small, measuring a mere 4 m<sup>2</sup>; this is all the more of concern given that they were being used to accommodate for prolonged periods servicemen held under criminal law. As for the larger cells, used to accommodate servicemen in disciplinary confinement, they were far too small for their intended occupancy (e.g. cells of some 8.5 m<sup>2</sup> could accommodate up to four servicemen).

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<sup>39</sup> Ranging from 18 m<sup>2</sup> intended for four detainees to up to some 50 m<sup>2</sup> for eight persons.

<sup>40</sup> Occupancy rates were just about adequate in larger cells (e.g. a cell of 40 m<sup>2</sup> could accommodate up to nine servicemen).

50. The delegation observed that no action had been taken after the 2002 visit to ensure that all detainees undergoing disciplinary confinement (i.e. not only officers and sub-officers) are provided with mattresses and blankets at night. In their letter of 6 September 2010, the Armenian authorities indicated that this problem – as would be the issue related to the size of the cells – should be solved with the future abolition of disciplinary confinement, as provided in the draft Military Disciplinary Code (see paragraph 43). In the CPT's view, this should not prevent the Armenian authorities from immediately remedying these shortcomings pending the adoption of the Code.

51. Sanitary arrangements appeared to be, on the whole, adequate: the common toilet and shower facilities in the establishments visited were generally in an acceptable state of repair and cleanliness. The sanitary facilities at the Isolator of Yerevan Military Police Division constituted an exception; they were dilapidated and dirty.

52. Detained servicemen interviewed generally had access to at least one hour of outdoor exercise in well-equipped yards (including a shelter against inclement weather).

53. As was the case in 2002, servicemen held under military disciplinary regulations were involved in some out-of-cell activities (e.g. work). However, military staff on remand or serving sentences were confined to their cells for some 23 hours a day, with virtually no occupation.

In addition, the regime imposed on servicemen held in disciplinary cells appeared to be, in some respects, unnecessarily strict (for instance, the servicemen concerned were prohibited from using their bed between 6 a.m. and 10 p.m. and allegedly were not allowed to sit or to lie down on the floor). In the CPT's view, **there is no justification for attaching the beds in disciplinary cells to the wall during the day. Further, it should be possible for servicemen held in disciplinary confinement to lie down on the bed during the day, if this is required by their medical condition.**

54. The delegation observed during the visit that servicemen remanded in custody and those serving sentences for criminal offences had access to a telephone and were allowed to receive regular family visits.<sup>41</sup> However, military staff held for breaches of military disciplinary regulations or for a violation of the disciplinary battalion's internal regulations were not entitled to make phone calls or receive visitors.<sup>42</sup> **The CPT refers to the recommendation in the third sub-paragraph of paragraph 123.**

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<sup>41</sup> See paragraphs 124 and 125.

<sup>42</sup> See Section 20 of Appendix 14 of the Law on Approving the By-Laws of the Garrison Services and Patrol Services of the Armed Forces as well as Section 52 (3) of the Penitentiary Code.



55. In the light of the above, **the Committee recommends that:**

- **the official occupancy levels of cells be reduced at the disciplinary isolators of Yerevan Military Police Division and Sevan Military Police Division in Martuni, the objective being to offer at least 4 m<sup>2</sup> of living space per detainee in multi-occupancy cells;**
- **the cells measuring 4 m<sup>2</sup> at Sevan Military Police Division in Martuni be either enlarged or taken out of service;**
- **all detainees undergoing disciplinary confinement be provided with mattresses, blankets and pillows at night;**
- **the state of repair and cleanliness of the sanitary facilities at the Disciplinary Isolator of Yerevan Military Police Division be improved;**
- **military staff remanded in custody or serving sentences be provided with some form of out-of-cell activity (e.g. work, sport).**

## C. National Security Service establishments

### 1. Ill-treatment

56. The CPT's delegation received some allegations of recent physical ill-treatment of criminal suspects during questioning by National Security Service officials. The ill-treatment alleged referred to the five months preceding the visit and consisted of punches, kicks and blows with wooden sticks whilst the person concerned was handcuffed, and was apparently aimed at securing confessions. Further, a few persons interviewed complained that they had been threatened with violence.

**The CPT recommends that all National Security Service officials be given the clear message that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions.**

57. The Committee would like to stress that rigorous recruitment procedures and improved training are essential to tackle any problem of ill-treatment at its roots. In the course of training, it must be made clear that the precise aim of questioning criminal suspects, whatever the seriousness of the offences they are suspected of having committed, should be to obtain accurate and reliable information in order to discover the truth about matters under investigation, and not to secure a confession from someone already presumed, in the eyes of National Security Service officials, to be guilty. **The CPT recommends that the Armenian authorities take measures to improve the professional training of National Security Service officials, in the light of the above remarks.**

**It should be noted that the recommendations made in Section II.A.4 (procedural safeguards against police ill-treatment) apply equally to persons deprived of their liberty by the National Security Service.**

### 2. Conditions of detention

58. Material conditions of detention in the Detention Facility of the National Security Service Headquarters in Yerevan, which comprised two cells, were generally of a good standard (see paragraph 27 of CPT/Inf (2010) 7). That said, the smaller cell measuring 6 m<sup>2</sup> could accommodate up to two detainees; in view of its limited size, this cell should not accommodate more than one inmate. Further, access to natural light was limited (the cell window was facing a wall). By letter of 6 September 2010, the Armenian authorities informed the CPT that steps were being taken to improve access to natural light in this cell and that staff had been instructed not to accommodate more than one person there. The Committee welcomes these measures.

59. All persons interviewed who were or who had been detained in this facility indicated that outdoor exercise was allowed for at least one hour per day. However, the exercise yard was too small and had no shelter against inclement weather. **The CPT recommends that these shortcomings be remedied.**

## D. Prison Service establishments

### 1. Preliminary remarks

60. For the first time, the delegation visited Kosh Prison. It also paid follow-up visits to Nubarashen Prison and the Prison Hospital's psychiatric ward, and carried out a full visit to Vardashen Prison, which had been visited briefly by the CPT in 2008. Further, the delegation examined the situation of life-sentenced prisoners at Yerevan-Kentron Prison.

The delegation's observations during the visit shed light on several key areas of concern, which will be examined in detail in the present section of the report, in particular: (i) prison overcrowding; (ii) impoverished programmes of activities for prisoners; (iii) corrupt practices by prison staff and public officials associated with the prison system; (iv) the reliance on an informal prison hierarchy to maintain good order in penitentiary establishments. Further, the situation of life-sentenced prisoners continues to give cause for concern.

61. The prison population of Armenia has followed an upward trend over the last four years: it stood at 4,928 in September 2010 (for an overall capacity of 4,346 places) as compared with 2,997 prisoners in April 2006 (i.e. a 40% increase). Prison overcrowding was a common feature of all the penitentiary establishments visited, Nubarashen Prison being the most striking example. The delegation witnessed the negative impact of overcrowding on many aspects of life in prison: the inmates taking turns to sleep on the available beds; cramped and unhygienic accommodation; the virtual absence of structured activities and restrictions on the provision of outdoor exercise; increased tension between prisoners and, on occasion, between prisoners and staff.<sup>43</sup> By letter of 6 September 2010, the Armenian authorities informed the CPT that, in order to reduce prison overcrowding, there were plans to build four new penitentiary establishments, including one in Yerevan.

The CPT must stress the need for a strategy covering both admission to and release from prison, to ensure that imprisonment really is the measure of last resort; building more prisons is not the sole solution. This implies, in the first place, an emphasis on non-custodial measures in the period before the imposition of a sentence and, in the second place, the adoption of effective measures which facilitate the reintegration into society of persons who have been deprived of their liberty. **The Committee recommends that the Armenian authorities redouble their efforts to combat prison overcrowding and, in so doing, be guided by all the relevant recommendations of the Committee of Ministers of the Council of Europe.**<sup>44</sup>

**The CPT also trusts that the prison-building programme of the Armenian authorities will be part of an overall strategy for creating a humane prison system which, in addition to improving the physical infrastructure, addresses the issues of prison management, the allocation of prisoners, as far as possible, to establishments close to their homes and opportunities for the reintegration of prisoners into free society.**

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<sup>43</sup> It should be mentioned that severe overcrowding may raise in itself an issue under Article 3 of the European Convention on Human Rights (see, for instance, *Veliyev v. Russia* of 24 June 2010).

<sup>44</sup> See Recommendation Rec (99) 22 concerning prison overcrowding and prison population inflation, Recommendation Rec (2000) 22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec (2003) 22 on conditional release (parole) and Recommendation Rec (2006) 13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse.

62. Some initiatives aimed at providing sentenced prisoners with organised activities have been pursued over the last few years (e.g. handicrafts, distance-learning programmes, organised sports events). However, it appeared during the visit that the proportion of inmates involved in such activities was very limited. The CPT would like to emphasise again that the provision of a broad range of purposeful activities to sentenced prisoners is an essential part of rehabilitation and resocialisation. As regards in particular remand prisoners, the almost total lack of activities aggravated the experience of imprisonment and rendered it more punitive than the regime for sentenced persons. **The Committee recommends that the Armenian authorities strive to develop programmes of activities for both sentenced and remand prisoners. The aim should be to ensure that both categories of prisoner are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activities of a varied nature.**

63. As was the case during the 2006 visit, corruption in the prison system was widely perceived by prisoners as an issue; this is of concern to the Committee. The delegation heard a number of allegations from prisoners that they and/or their relatives had been asked to give money or other benefits to staff in order to be allowed to exercise their rights (e.g. short visits in open conditions at Nubarashen Prison, access to a doctor and dental care at Kosh Prison, foreign prisoners' access to showers at Vardashen Prison) or not to be sent to another penitentiary establishment under a stricter regime (e.g. at Kosh Prison). Further, many allegations were heard of prison staff or public officials associated with the prison system requesting payment from prisoners and/or their relatives in order to secure a positive decision on early release. **The CPT recommends that the Armenian authorities step up their efforts to combat corruption in the prison system.**<sup>45</sup> **Further, all prison staff and public officials associated with the prison system should be given the clear message that obtaining or demanding undue advantages from prisoners or their relatives is not acceptable; this message should be reiterated in an appropriate form at suitable intervals.**

## 2. Ill-treatment

64. The overwhelming majority of prisoners with whom the delegation spoke indicated that they were being treated in a correct manner by prison staff. This is a positive reflection on staff. No allegations of physical ill-treatment were received at Kosh Prison, Vardashen Prison or the Prison Hospital's psychiatric ward.

At Nubarashen Prison, contrary to the situation in 2006, the life-sentenced prisoners interviewed stressed that there had been a significant change for the better in the attitude of staff and that they had not suffered from or witnessed any ill-treatment. However, a few allegations of physical ill-treatment by staff were heard from other prisoners in that establishment. The alleged ill-treatment, consisting of baton blows, had apparently occurred after they had refused to be transferred to cells offering worse conditions.

At Vardashen Prison, a few foreign prisoners alleged that they had been the subject of racist insults by certain staff members, but it appeared that the management had taken appropriate action upon their complaints.

**The CPT recommends that staff working at Nubarashen Prison be reminded periodically that the ill-treatment of inmates is unacceptable and that resort to such ill-treatment will be severely punished.**

<sup>45</sup> See, in this connection, paragraph 38 of CPT/Inf (2007) 47 and CPT/Inf (2007) 48.

65. In the establishments visited, resort to “special means” (e.g. batons, handcuffs) was generally better documented than it had been in the past. However, it transpired from the information gathered by the delegation that the use of batons was not always recorded at Nubarashen Prison. **The CPT recommends that the attention of the management of Nubarashen Prison and of supervising prosecutors be drawn to the need for exercising extra vigilance to ensure that all instances of resort to “special means” against prisoners are adequately recorded and that “special means” are never applied as a form of punishment. Further, it should be recalled that a prisoner against whom “special means” have been used should have the right to be immediately examined and, if necessary, treated by health-care staff. The results of the examination (including any relevant statements by the prisoner and the health-care staff’s conclusions) should be formally recorded and made available to the prisoner, who in addition should be entitled to undergo a forensic medical examination.**

66. It is the responsibility of the staff and of the prison administration as a whole to protect prisoners’ physical and psychological integrity, and to take immediate, resolute and even anticipatory action to prevent inter-prisoner intimidation. In the course of the 2010 visit, the delegation observed that there was a general tendency for staff in Nubarashen and Kosh Prisons to delegate authority to a select number of inmates who were at the top of the informal prison hierarchy, in particular a prisoner “leader” (the so-called “zon nayokh”), and use them to keep control over the inmate population. In order to exercise his authority, the prisoner “leader” at Nubarashen Prison was apparently afforded certain privileges, such as the possibility to move relatively freely within the establishment and to enter any cells. At Kosh Prison, the prisoner “leader” was clearly in charge of order among prisoners. It also appeared that those not willing or able to give financial or other contributions to the prisoner “leader” in exchange for full protection were marginalised and at risk of intimidation.

Further, the prisoners referred to as “homosexuals”,<sup>46</sup> who were considered by other inmates (and staff) to belong to the lowest caste in the informal prison hierarchy and were accommodated in the most neglected parts of the establishments visited, alleged that they frequently had to deal with verbal abuse and provocative behaviour by other prisoners and feared that they would be the victims of violence should they be held in the same accommodation areas as the rest of the prison population.

67. Staff with whom the delegation spoke considered that, given the limited human resources, they had no other option but to give a reasonable degree of authority to prisoner “leaders” in order to ensure security within the prisons. At the same time, the staff firmly believed that this type of “management” was viable as long as they could ensure that prisoner “leaders” would not make use of their influence over the majority of inmates to the detriment of the prison administration itself.

In the CPT’s view, such an approach constitutes not only a potential threat to good order within prisons but also a high-risk situation in terms of inter-prisoner intimidation, and it leads to a culture of inequality of treatment between inmates.

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<sup>46</sup> This category of inmate does not only comprise prisoners of that sexual orientation, but may also include inmates rejected by the mainstream prison population for various other reasons (e.g. because of having suffered sexual violence, for having committed sexual offences, etc.).

68. **The CPT recommends that the Armenian authorities adopt a national strategy for combating inter-prisoner intimidation, including steps to put an end to the reliance on the informal prison hierarchy to maintain good order in prison establishments.** In this context, reference is made to the recommendation in paragraph 119 concerning staffing levels.

**Further, the Committee recommends that the management and staff of Kosh and Nubarashen Prisons make use of all the means at their disposal to counter the negative impact of the informal prison hierarchy and prevent inter-prisoner intimidation. The prison management must be vigilant as to possible collusion between staff and prisoner “leaders”, and prison staff must be especially alert to signs of trouble, pay particular attention to the treatment of vulnerable inmates by other prisoners, and be both resolved and properly trained to intervene when necessary.**

### 3. Prisoners sentenced to life imprisonment

69. A few months after the 2006 periodic visit, life-sentenced prisoners held in Goris Prison were transferred to Nubarashen Prison, which was considered to offer more appropriate conditions. At the time of the 2010 visit, Nubarashen Prison was holding 92 lifers. Two life-sentenced prisoners were receiving treatment at the Prison Hospital. Three other lifers were being accommodated at Yerevan-Kentron Prison.

70. At Nubarashen Prison, prisoners serving life sentences were generally offered material conditions which were better than those of the rest of the inmate population. They were accommodated in three cells of Unit 4 and the whole of Unit 5, located on the highest two floors of the main accommodation building. Cells were of an adequate size for their intended occupancy (e.g. four beds in a cell of some 28 m<sup>2</sup>, including a partitioned sanitary annexe). Efforts had been made to remedy humidity problems in the cells of Unit 5. Further, showers had been installed within the existing in-cell sanitary annexes, in order to allow prisoners to take more frequent showers. That said, a few cells (e.g. Nos. 77 and 79) were in a poor state of repair and the windows were still fitted with several layers of metal grids and bars which significantly limited access to natural light. **The CPT recommends that these shortcomings be remedied.**

It is of great concern to the CPT that no progress has been made as regards the regime of activities provided to life-sentenced prisoners. Out-of-cell activities were no longer on offer (the activity and fitness rooms had been converted into cells). Further, no inmates had work. Only two out of 92 inmates were involved in distance-learning programmes. As for outdoor exercise, it was apparently frequently limited to two or three times a week and it was not available at week-ends.<sup>47</sup> To sum up, lifers spent up to 24 hours per day confined to their cells in a state of enforced idleness, their main activity being watching TV/DVDs and reading books. **The CPT calls upon the Armenian authorities to develop a programme of activities for prisoners sentenced to life imprisonment (including work, education, association and sports, as well as targeted rehabilitation programmes).** Further, reference is made to the recommendation in paragraph 83 as concerns the organisation of outdoor exercise.

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See also paragraph 82.

71. At Yerevan-Kentron Prison, the material conditions in which the three life-sentenced prisoners were accommodated give cause for serious concern. Their cells were small, measuring just over 6 m<sup>2</sup>, and were too narrow (i.e. less than 2 m between the walls). Further, there was limited access to natural light and no outside view (as the windows faced a wall). Cells Nos. 20 and 21 were in a relatively good state of repair and hygiene, but cell No. 18 was filthy, infested with mice and the water tap was broken with water running continuously. At the end of the visit, the delegation requested a report on steps taken to improve the material conditions of detention of these inmates. In their responses of 6 and 9 September 2010, the Armenian authorities informed the CPT that measures were being taken (e.g. improvement of access to natural light, repair of the water tap and de-infestation of cell No. 18). However, the fundamental problem of the inadequate size of the cells remains. **The CPT recommends that a solution be found without delay on this issue: either the cells are enlarged or, preferably, the three prisoners concerned are accommodated elsewhere.**

The situation was aggravated by the regime of solitary confinement applied to the three life-sentenced prisoners. Two of them had been held in such conditions for over nine years. They were not allowed to associate with each other or with any other prisoner. They did not even have a TV set or radio in their cells (unlike the third inmate). The only regular out-of-cell activity consisted of daily outdoor exercise, which was taken alone in a yard on the top floor of the prison building. Such conditions could be considered as amounting to inhuman treatment and contributed to the degradation in the prisoners' mental health (see, in this respect, paragraph 110).

**The recommendation made in paragraph 70 applies equally to the three life-sentenced prisoners held at Yerevan-Kentron Prison. As regards more specifically the two life-sentenced prisoners who had been held in conditions of solitary confinement for years, immediate steps must be taken to allow them contact with other inmates. The Committee also wishes to receive confirmation that TV sets have been installed in the cells of these two prisoners.**<sup>48</sup>

72. It appeared that measures had been taken after the 2006 visit to ensure that the handcuffing of prisoners sentenced to life imprisonment during out-of-cell movements was based on an individual risk assessment. However, following the escape of two lifers from Nubarashen Prison in November 2009, the practice of systematic handcuffing of life-sentenced prisoners whenever they were taken out of their cells had been re-introduced in that establishment;<sup>49</sup> in the CPT's view, this is disproportionate and could well be considered as a form of collective punishment. Further, lifers were apparently handcuffed during dental treatment and, on occasion, during phone calls.

It is also of concern to the CPT that relations between life-sentenced prisoners and custodial staff in the establishments visited were reduced to the strict minimum. In the opinion of the Committee, much more emphasis must be placed on building positive relations between staff and these inmates. This is in the interests not only of the humane treatment of the prisoners but also of the maintenance of effective control and security and of staff safety.<sup>50</sup>

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<sup>48</sup> In a communication of 9 September 2010, the Armenian authorities informed the Committee that these two prisoners had been allowed to have a TV set.

<sup>49</sup> There was no such practice at Yerevan-Kentron Prison.

<sup>50</sup> This is also one key element of the concept of "dynamic security".

**The CPT calls upon the Armenian authorities to review the security arrangements for life-sentenced prisoners, in the light of the preceding remarks. Steps should be taken without delay to ensure that at Nubarashen Prison, the handcuffing of life-sentenced prisoners when outside their cells is an exceptional measure and is always based on an individualised risk assessment.**

73. As regards possibilities for contact with the outside world, lifers were allowed to send and receive letters and to make phone calls once a week. However, Armenian legislation continues to impose severe restrictions on the visiting entitlement of life-sentenced prisoners.<sup>51</sup> The CPT must recall that this approach runs counter to the generally accepted principle that offenders are sent to prison as a punishment, not to receive punishment. Further, short-term visits took place, as a rule, under conditions not allowing physical contact between prisoners and their visitors (in booths with plexiglas partitions). The Committee considers that special efforts should be made to prevent the breakdown of family ties of prisoners serving life sentences and to enable them to exercise rights under Article 8 of the European Convention on Human Rights. **The CPT calls upon the Armenian authorities to amend the legislation with a view to bringing the visit entitlement of life-sentenced prisoners on a par with that of other inmates. As a general rule, visits should take place in open conditions (e.g. around a table), visits through a partition being the exception.**

74. More generally, the CPT must stress again that it can see no justification for systematically segregating life-sentenced prisoners.<sup>52</sup> Such an approach is not in line with the Council of Europe's Committee of Ministers' Recommendation (2003) 23 of 9 October 2003 on the management by prison administrations of life-sentenced and other long-term prisoners. The report accompanying that recommendation recalls that the assumption is often wrongly made that the fact of a life sentence implies that an inmate is dangerous in prison. The placement of persons sentenced to life imprisonment should therefore be the result of a comprehensive and ongoing risk and needs assessment, based on an individualised sentence plan, and not merely a result of their sentence. **The CPT recommends that the Armenian authorities review the legislation and practice as regards the segregation of life-sentenced prisoners, in the light of these remarks.**

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<sup>51</sup> Pursuant to Section 92 of the Penitentiary Code, life-sentenced prisoners and other inmates sentenced for having committed particularly serious crimes are entitled to at least three short visits (of up to four hours) and one long visit (of up to 72 hours) per year (see, in this connection, paragraph 124).

<sup>52</sup> Section 68 (8) of the Penitentiary Code provides that lifers should be kept separate from prisoners serving fixed-term sentences.



#### 4. Foreign prisoners

75. During the 2010 visit, the CPT's delegation paid particular attention to the situation of foreign nationals in prisons. There were 38 foreign nationals in Unit 6 of Nubarashen Prison, 16 at Kosh Prison and 27 at Vardashen Prison.

76. As regards material conditions, foreign prisoners held at Kosh Prison and in the semi-open section of Vardashen Prison generally experienced the same problems as other inmates (see section 5 below). At Nubarashen Prison, unlike most other prisoners, every foreign national had his own bed; that said, the overcrowding observed in their cells was even more serious than in other cells of Unit 6 (e.g. 13 foreign nationals in a cell of 22 m<sup>2</sup>). The same problem was observed in the closed section of Vardashen Prison (e.g. six foreign nationals in a cell of 13 m<sup>2</sup>). **The CPT recommends that urgent steps be taken at Nubarashen Prison and in the closed section of Vardashen Prison to reduce overcrowding in the cells for foreign prisoners, the aim being to comply with the national standard of at least 4 m<sup>2</sup> of living space per prisoner.**

At Nubarashen and Vardashen Prisons, the delegation was submerged with complaints from foreign prisoners about the lack of special diets to meet their needs. **The CPT invites the Armenian authorities to ensure that special dietary needs of foreign nationals are taken into account in the preparation of meals in both establishments.**

77. Mirroring the situation of other prisoners, foreign inmates had no programme of activities worthy of the name. More specifically, no efforts were made to provide them with any form of occupation adapted to their needs. At Nubarashen Prison, the prison library's books in languages other than Armenian and Russian were limited to the Koran and the Bible. Further, religious activities were only provided for those of a Christian denomination in both Nubarashen and Vardashen Prisons. **The recommendations made in paragraphs 83 (last item) and 96 apply equally to foreign prisoners. Further, the CPT recommends that reading material in languages they understand and language classes be provided for foreign prisoners and that arrangements be made to allow access to suitable areas for religious activities.**

78. The delegation observed that relations between prison staff and foreign prisoners were generally limited, due to communication difficulties. This contributed to a certain sense of isolation among foreigners and led to potential tension between staff and inmates. In the CPT's view, it is essential that prison staff working in direct contact with foreign prisoners be carefully selected and receive appropriate training. Staff should possess both well-developed skills in the field of interpersonal communication and cultural sensitivity, given the different backgrounds of the prisoners concerned. Further, at least some of them should have relevant language skills. **The Committee recommends that appropriate steps be taken in prison establishments frequently holding foreign nationals, in the light of the preceding remarks. Greater communication between staff and foreign prisoners should be encouraged.**

79. Foreign prisoners had the same entitlements to visits and phone calls as other inmates. That said, in practice, their principal means of maintaining contact with their families was a weekly 5-minute phone call. **The CPT recommends that the Armenian authorities adopt a flexible approach as regards possibilities to convert visit entitlements into phone calls, bearing in mind the special needs of this category of inmate.**

## 5. Conditions of detention of the general prison population

### a. follow-up visit to Nubarashen Prison

80. Nubarashen Prison was the subject of a full visit by the CPT in 2002.<sup>53</sup> With an official capacity of 840 places, the inmate population has almost doubled over the last eight years, with 1,259 inmates at the time of the 2010 visit (including 402 remand prisoners, 590 inmates at various stages of the appeal process and 134 inmates serving their sentences).<sup>54</sup>

81. As regards material conditions, most of the cells were seriously overcrowded, with a significant proportion of inmates taking turns to sleep on the available beds or on the floor (e.g. 19 prisoners in a cell of 26 m<sup>2</sup> containing 12 beds).<sup>55</sup>

The majority of cells (and in-cell toilets) were in a state of dilapidation, the cells of “homosexual” prisoners – located next to the disciplinary cells – being among the worst. Ventilation was poor, and running water was available for a maximum of four hours a day (two hours in the morning and two hours in the evening). Moreover, in winter, cells were heated with electric stoves but electricity cuts were not rare.

Further, the shower facilities were generally in a poor state of repair, and prisoners had access to them at best once a week, frequently only once every two weeks.

82. The provision of outdoor exercise at Nubarashen Prison has been an ongoing problem since the CPT’s first visit in 2002. Outdoor exercise was still not organised at week-ends, mainly due to staff shortages, and most prisoners interviewed indicated that, in practice, they were allowed outdoor exercise once to three times a week.

Apart from a few prisoners working in general services (e.g. cleaning, maintenance work, kitchen), the vast majority of inmates were locked up for 23 or even 24 hours a day in their cells, with no other activities than watching TV, playing board games or reading books.

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<sup>53</sup> See paragraphs 69-75 of CPT/Inf (2004) 25.

<sup>54</sup> It was accommodating 665 inmates at the time of the 2002 visit.

<sup>55</sup> Some remand prisoners were held for about 16 months in such conditions.

83. In the CPT's view, the combination of the above-mentioned negative factors at Nubarashen Prison could well be considered as amounting to inhuman and degrading treatment. **The CPT calls upon the Armenian authorities to set the following as short-term objectives at Nubarashen Prison:**

- i) to ensure that every prisoner has his own bed;**
- ii) to ensure an uninterrupted supply of electricity;**
- iii) to improve the water supply;**
- iv) to refurbish the shower facilities and ensure access to a shower at least once a week;**
- v) to provide all inmates with at least one hour of outdoor exercise every day, including at week-ends;**

**and the following as medium-term objectives:**

- i) to decrease the overcrowding, the objective being to offer a minimum of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells;**
- ii) to renovate the prisoner accommodation and to improve ventilation and hygiene in the cells;**
- iii) to offer organised out-of-cell activities (work, recreation/association, education, sport) to all categories of prisoner.**

**The CPT also invites the Armenian authorities to increase, in the medium term, the frequency of showers for inmates, in the light of Rule 19.4 of the European Prison Rules.<sup>56</sup>**

84. In the course of the visit, the delegation was informed that Nubarashen Prison should be closed down once the construction of a new prison in Yerevan has been completed (see paragraph 61). **The CPT would like to receive more details of these plans.**

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<sup>56</sup> Rule 19.4 of the European Prison Rules states: "Adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene".

b. Kosh Prison

85. Kosh Prison is located in the village of Kosh, some 45 km from Yerevan. Its buildings served as an educational institution for about 40 years before assuming their current function in 1990. With an official capacity of 640, Kosh Prison was accommodating 731 sentenced men at the time of the visit, 718 being held in semi-closed conditions and 13 in open conditions. It appeared from the information provided to the delegation that the increase in the inmate population was a relatively recent phenomenon (the establishment had held fewer than 590 prisoners on average in 2008 and 2009).

86. With respect to material conditions, the detention areas were generally well lit, adequately ventilated and clean. However, prisoners were accommodated in large-capacity dormitories. The CPT has emphasised in the past the many drawbacks and disadvantages of this type of accommodation,<sup>57</sup> which are compounded when the prisoners concerned are held under cramped conditions – as was the case at Kosh Prison (e.g. 13 prisoners in a dormitory measuring about 40 m<sup>2</sup>; 54 inmates in a dormitory of some 110 m<sup>2</sup>). It is also noteworthy that dormitories of this type are in contradiction with Armenian legislation.<sup>58</sup>

87. The prison management faced serious challenges in meeting prisoners' basic needs. The leaking roofs of two accommodation buildings could not have been repaired recently without the financial support of the prisoners themselves.<sup>59</sup> Further, a number of electric stoves had been bought with the prisoners' financial contributions to ensure that the dormitories are appropriately heated in winter. It should also be noted that there had been repeated water shortages in the recent past. By letter of 6 September 2010, the Armenian authorities informed the Committee that water supply problems had been overcome and that prisoners were being provided with water on a 24-hour basis; this is a welcome development.

88. The sanitary arrangements were clearly unsatisfactory. The communal toilet facility comprised some 35 cubicles which were dirty and did not offer sufficient privacy. Further, the shower facility was dilapidated and access to it was said to be organised at best once a fortnight. The delegation was told that there were plans to build a new shower facility, with the support of prisoners.

89. The delegation received many complaints about the poor quality of the food. It appeared from the menus that animal protein was often missing in the meals served to prisoners. In this connection, the delegation was told that the national nutritional norms were observed at 80% only.

90. **The CPT urges the Armenian authorities to refurbish the toilet and shower facilities at Kosh Prison and to ensure that the quality and quantity of food provided to prisoners of this establishment comply with national nutritional standards.**

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<sup>57</sup> See, for instance, paragraph 71 of CPT/Inf (2007) 47.

<sup>58</sup> See Chapter 18 of the Penitentiary Code.

<sup>59</sup> The prisoners' financial contributions were apparently collected through the same channel as the one described in paragraph 66.

Further, the Committee recommends that steps be taken to transform the large-capacity dormitories into smaller living units offering more privacy and better possibilities for control by staff and to reduce the occupancy levels in the dormitories in order to comply with the legal requirement of at least 4 m<sup>2</sup> of living space per prisoner.

In addition, the CPT invites the Armenian authorities to increase the frequency of showers for inmates, in the light of Rule 19.4 of the European Prison Rules.

The Committee would also like to stress that it is the prison administration's responsibility to ensure that prisoners are held in decent conditions. If certain prisoners are given free reign to exploit their wealth, this may quickly erode the authority of the prison management within the establishment concerned.

91. The programmes of activities offered to prisoners at Kosh Prison were impoverished. It should be acknowledged as a positive element that inmates had access to a spacious outdoor area throughout the day as well as to a well-equipped sports hall. Further, a church was being renovated. However, less than 9% of the inmate population were engaged in work: 25 prisoners had paid jobs in the establishment's general services (kitchen, cleaning, etc.), 25 others had unpaid jobs (e.g. repair/construction works) and 11 inmates had been selected to perform work on the basis of their professional skills (e.g. handicrafts). No educational programmes were available. Moreover, the establishment's library was poorly stocked and the delegation received many complaints that there were not enough TV sets for the number of prisoners held in the establishment. **The CPT recommends that the Armenian authorities strive to develop the programme of activities offered to prisoners at Kosh Prison, in particular as regards education and vocational training, and to increase work opportunities for prisoners. Further, leisure and organised sports activities should be further developed (TV, provision of books/newspapers, organisation of sports events).**

92. The conditions of detention of "homosexual" prisoners were of particular concern to the delegation and may well be considered as discriminatory treatment. They were accommodated in conditions worse than those of the rest of the inmate population, in a warehouse with a leaking roof and limited access to natural light.<sup>60</sup> Although all of them were employed, they generally performed unpleasant tasks (such as cleaning the toilets) and allegedly had to work seven days a week, for seven to eight hours a day.

**The CPT recommends that the Armenian authorities take action without delay at Kosh Prison to provide "homosexual" prisoners with material conditions and a programme of activities on a par with those offered to other inmates. Further, measures should be taken to ensure that "homosexual" prisoners have at least one day of rest from work a week and sufficient time for education and other activities (see also Rule 26.16 of the European Prison Rules).**

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<sup>60</sup> See also paragraph 81 as regards the situation of this category of inmate at Nubarashen Prison.

c. Vardashen Prison

93. Vardashen Prison was initially built as a military unit in the 1990s and was subsequently transformed into a penitentiary establishment in 2005. With an official capacity of 154, it was accommodating 200 inmates at the time of the visit (142 sentenced prisoners and 58 remand prisoners), most of them being former law enforcement officials.<sup>61</sup> It comprised two main sections: a closed one (for 90 inmates) and a semi-open one (for 97 prisoners). Further, 13 inmates were held in open conditions.

94. Vardashen Prison offered somewhat better material conditions than those observed in the other establishments visited. The cells were generally in a good state of repair, adequately lit and ventilated, and well equipped (including a partitioned in-cell toilet). Serious efforts were being made to resolve water supply problems (e.g. almost all the necessary water pipes had been replaced; new water pumps and tanks had been installed).<sup>62</sup> Further, the shower facilities, to which prisoners had access once a week, had been renovated. That said, the national standard of 4 m<sup>2</sup> of living space per prisoner was often not being observed at the time of the visit (e.g. four inmates in a cell of 13 m<sup>2</sup> in the closed section; nine prisoners in a dormitory of 27 m<sup>2</sup> in the semi-open section).

**The CPT recommends that the Armenian authorities strive to reduce the cell occupancy rates at Vardashen Prison, the objective being to comply with the national standard of at least 4 m<sup>2</sup> of living space per prisoner. Further, the comment in paragraph 90 as regards the frequency of showers applies equally to Vardashen Prison.**

95. All prisoners in the closed section had access to at least one hour of outdoor exercise per day, including at week-ends, while those held in semi-open conditions could move freely within the section throughout the day. Both sections were equipped with spacious and adequately-equipped exercise yards.

96. Turning to the programme of activities, the situation was similar to that observed in other establishments visited. Only the 13 inmates held in open conditions had work (i.e. 6.5 % of the inmate population). Further, prisoners held in the semi-open section had regular access to a sports hall during the day. However, prisoners accommodated in the closed section spent up to 23 hours a day in their cells, their only activities being to watch TV, play board games or read books.

**The CPT recommends that action be taken at Vardashen Prison to develop suitable programmes of activities for the different categories of inmate (including work, education, sports, cultural and leisure activities).**

97. The delegation was concerned by the situation of a prisoner segregated for his own safety, who had been held for months in conditions akin to solitary confinement in one of the cells of the separate admission/segregation unit.<sup>63</sup> He was not allowed to speak to other inmates, took outdoor exercise alone and was afforded very little human contact with staff; he also had no contact with his family. **The CPT invites the Armenian authorities to set up individualised programmes of activities, involving both staff providing professional psychological support and custodial staff, for any inmates at Vardashen Prison who are segregated for a prolonged period for their own safety.**

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<sup>61</sup> As regards foreign prisoners, see Section II.D.4. of this report.

<sup>62</sup> The establishment had apparently faced repeated water shortages in the recent past, with inmates not being provided with water for up to several days.

<sup>63</sup> See paragraph 122.

## 6. Health care

### a. health-care staff resources and facilities

98. At the outset of the 2010 visit, the delegation's official interlocutors stressed that steps were gradually being taken to employ more civilian health-care staff in prison health-care services, including the Prison Hospital.

99. At Nubarashen Prison, the health-care team comprised 13 full-time doctors (including the head doctor, a cardiologist, a dermatologist, a stomatologist, and two specialists in internal medicine, two TB specialists and a psychiatrist); three of the doctors were civilian. The number of feldshers, all working on a full-time basis, had been reduced to seven since the 2006 visit (four of them being civilian feldshers). Doctors worked from 9 a.m. to 6 p.m. on week-days and feldshers provided a 24-hour presence, including at week-ends.

100. The health-care staff of Kosh Prison was composed of three doctors (all general practitioners) and one feldsher. Two doctors' posts and three feldshers' posts were vacant at the time of the visit;<sup>64</sup> in this respect, the delegation was informed that, due to low salaries, it was difficult to recruit and retain qualified health-care staff. Further, there was no stomatologist and dental care was provided by the establishment's feldsher (who was undergoing training in dental care).

There was no regular presence of health-care staff during the night and at week-ends, except for when the feldsher was on 24-hour duty, every third day. In cases of emergency, an ambulance was called. The present situation poses a risk to the health of prisoners. For instance, several weeks before the delegation's visit, a prisoner had required medical assistance during the night. It had taken some time for prison staff to become aware of this and about 45 minutes for an ambulance to arrive. The inmate concerned died.

101. At Vardashen Prison, the health-care team comprised two full-time doctors (the head doctor and an internal diseases specialist). Four civilian doctors (a neuropathologist, a dermatologist, an ophthalmologist and a stomatologist) attended the establishment twice a week. However, no health-care staff were present during the night and at week-ends.

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<sup>64</sup>

The establishment was also visited by several prison medical specialists from Yerevan.

102. To sum up, the penitentiary establishments visited can, on the whole, be considered as adequately staffed with doctors. However, all of them suffered from a shortage of feldshers/nurses. **The CPT recommends that the Armenian authorities take appropriate action<sup>65</sup> to reinforce the health-care staff teams at Nubarashen, Kosh and Vardashen Prisons with feldshers and/or nurses, and in particular:**

- **to employ at least two feldshers/nurses at Vardashen Prison;**
- **to fill the vacant posts of feldshers at Kosh Prison;**
- **to ensure that a person qualified to provide first aid, preferably someone with a recognised nursing qualification, is present around the clock at Kosh and Vardashen Prisons, including at week-ends.**

**Moreover, steps should be taken to ensure without delay the regular attendance of a stomatologist at Kosh Prison.**

103. The medical facilities and equipment in the establishments visited were, on the whole, relatively satisfactory. However, there was no adequate sterilisation equipment. After the visit, by letter of 6 September 2010, the Armenian authorities informed the CPT that the prison health-care authorities had made an official request to acquire such equipment. **The Committee would like to receive confirmation that sterilisation equipment has been provided to the establishments visited.**

Further, upon examination of the medical documentation in the prison establishments visited, the delegation found that the medical facilities were accommodating several prisoners who did not have health problems of a degree requiring placement in the prison medical facilities. **The Committee would like to receive the remarks of the Armenian authorities on this matter.**

104. At Kosh Prison, serious delays occurred in the transfer of inmates to outside hospital facilities, including to the Prison Hospital (i.e. periods of up to six months). This is a matter of serious concern to the CPT. **The Committee urges the Armenian authorities to ensure that prisoners in need of hospital treatment are promptly transferred to appropriate medical facilities. If necessary, the decision-making process should be reviewed.**

105. The supply of medicines (other than for tuberculosis) in penitentiary establishments has been a source of ongoing concern for the CPT. Unfortunately, no progress was observed in this area during the 2010 visit. The relevant budget was very limited and inmates frequently had to rely on their own financial resources or those of their relatives in order to receive the medication prescribed to them. **The CPT calls upon the Armenian authorities to ensure that prison establishments are supplied with appropriate medication.**

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Including by providing working conditions that are sufficiently attractive to recruit and retain staff.



- b. medical screening on admission / prevention of violence

106. Prisoners were medically screened shortly after admission to the establishments visited. However, the initial medical examination was generally superficial at Kosh Prison (i.e. absence of physical examination).

Further, at Nubarashen and Vardashen, medical examinations took place as a rule in the presence of prison staff as well as escort police staff (in the case of transfers from police establishments or courts). It emerged during the visit that such arrangements could seriously distort the results of medical examinations. For instance, at Nubarashen Prison, the documentation consulted referred to prisoners' statements according to which the injuries observed on arrival at the prison had been sustained as a result of a fall either before or during apprehension; however, when interviewed by the delegation, the prisoners concerned indicated that they had preferred not to say, in front of non-medical prison staff and/or police officers, that they had been ill-treated, for fear of reprisals. Further, the medical records generally did not contain conclusions as to the degree of consistency between any allegations made and the medical findings.

107. The CPT wishes to recall that prison health-care services can and should play an essential role in the prevention of ill-treatment. Consequently, **the Committee calls upon the Armenian authorities to provide health-care staff with detailed instructions on medical examinations of prisoners. In particular:**

**(i) with respect to medical examinations on admission**

- **they should never be conducted in the presence of escort police officers;**
- **if a person bears injuries consistent with possible ill-treatment, the relevant prosecutor should always be immediately notified and a copy of the report on injuries forwarded to him. Detained persons and their lawyers should be entitled to receive a copy of this report at the same time;**

**(ii) with respect to all medical examinations (whether they are performed on admission or after a violent episode in prison)**

- **medical examinations of prisoners should be conducted out of the hearing and – unless the health-care professional concerned expressly requests otherwise in a given case – out of the sight of non-medical prison staff;**
- **they should be comprehensive, including appropriate screening for injuries;**
- **statements made by the prisoners concerned in the context of such examinations, the objective medical findings and medical conclusions should not be accessible to non-medical prison staff (health-care staff examining the prisoners may inform prison staff on a need-to-know basis about the state of health of an inmate, including medication being taken and particular health risks).**

c. tuberculosis

108. Since the 2006 visit, the Armenian authorities have made further progress in the context of the national programme to control tuberculosis within the prison system (e.g. regular screening of prisoners, immediate segregation of prisoners diagnosed with active tuberculosis, steps to ensure continued treatment upon release, etc.). The Committee was also informed of action taken to organise testing for multi-drug-resistant forms of tuberculosis and to provide the best available treatment to patients. **The CPT trusts that the Armenian authorities will pursue their efforts to combat tuberculosis in prison. In this context, it would like to receive statistical data on morbidity and mortality in prison in relation to tuberculosis (including multi-drug-resistant forms of tuberculosis) over the last four years.**

d. psychological and psychiatric care in the prison establishments visited

109. The situation as regards the provision of psychiatric care to prisoners remains unsatisfactory. At Kosh and Vardashen Prisons, there was no psychiatrist and visits by outside consultants appeared to be sporadic. Nubarashen Prison did employ a psychiatrist, but the treatment of prisoners “under psychiatric observation” was seriously handicapped by the poor material conditions<sup>66</sup> and treatment possibilities other than medication were lacking.

**The CPT recommends that the Armenian authorities improve the provision of psychiatric care to prisoners, in particular by securing regular visits by psychiatrists to Kosh and Vardashen Prisons. Further, as regards prisoners “under psychiatric observation” at Nubarashen Prison, the CPT must stress again that inmates who are in a situation of vulnerability should never be accommodated under material conditions which are inferior to those prevailing on normal location. Moreover, mentally disturbed prisoners who require in-patient psychiatric treatment should be promptly transferred to appropriate hospital facilities which are adequately equipped and possess appropriately trained staff.**

110. Two of the life-sentenced prisoners held at Yerevan-Kentron Prison appeared to have unmet serious mental-health needs, notably related to prolonged detention in solitary confinement (see paragraph 71). At the end of the visit, the delegation requested that detailed independent psychiatric assessments of these two prisoners be performed, with a view to providing necessary treatment. In a communication of 9 September 2010, the Armenian authorities informed the Committee that following examinations by both prison and civilian psychiatrists, one of the two prisoners concerned was diagnosed with a psychiatric disorder as a result of long-term isolation and has subsequently been treated with medication. **The CPT would like to receive, within one month, copies of the psychiatric assessment reports.**<sup>67</sup>

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<sup>66</sup> As was the case in 2002, the prisoners concerned were accommodated on the ground floor of the main accommodation block. These cells were in a poor state of repair, had insufficient access to natural light and were poorly ventilated (see also paragraph 74 of CPT/Inf (2004) 25).

<sup>67</sup> On 15 November 2010 (i.e. three days after the adoption of the present report), the Committee received more details about the psychiatric assessments of both prisoners and the treatment provided to them. This information will be examined by the CPT together with the psychiatric assessment reports.

111. As regards psychological care, each penitentiary establishment visited employed a psychologist, which represents a positive development. The psychologists were involved in the risk assessment of prisoners and also played a key role in the management of inmates presenting suicide risks or on hunger strike. **The Committee invites the Armenian authorities to reinforce the provision of psychological care in prison and to develop the role of prison psychologists, in particular as regards therapeutic clinical work with various categories of potentially vulnerable inmates.**

e. Yerevan Prison Hospital's psychiatric ward

112. The visit to Yerevan Prison Hospital's psychiatric ward was of a follow-up nature and aimed at assessing progress made since the 2002 visit.<sup>68</sup>

With an official capacity of 45 places, the ward was accommodating 34 psychiatric patients at the time of the visit. Most of them were suffering from organic cerebral disorders. The average stay of psychiatric patients was about 90 days; that said, some had spent more than a year in the ward.

Psychiatric patients were being accommodated together with some 15 somatic patients on the ward, due to difficulties in stratifying the patients throughout the hospital.<sup>69</sup> This had negative repercussions on the provision of care to psychiatric patients. In their letter of 6 September 2010, the Armenian authorities informed the Committee that the psychiatric ward was no longer accommodating somatic patients. **The CPT would like to know where these prisoners were transferred.**

113. With respect to material conditions, there had been some limited improvements since the 2002 visit. The ward had been renovated in 2003 and the delegation noted in particular that the metal shutters fixed to the windows had been removed. A few of the rooms offered relatively spacious conditions (e.g. two patients in a room of 16 m<sup>2</sup>), had recently been repainted and nicely furnished (including cupboards, personal items, TV, etc.).

However, many psychiatric patients were accommodated in cramped conditions (e.g. three patients in a room of some 10 m<sup>2</sup>). Further, a number of rooms were dirty and in a poor state of repair with some missing window panes (e.g. in rooms Nos. 19 and 20). Further, rooms continued to be heated with small electric stoves.

Access to toilets and showers did not appear to be a problem, but the toilet and shower facilities were dilapidated and filthy. Further, the delegation was concerned to note that the personal hygiene of some patients was not sufficiently attended to.

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<sup>68</sup> See paragraphs 131-139 and 141 of CPT/Inf (2004) 25.

<sup>69</sup> The hospital had 420 beds and was accommodating 210 patients (as well as 52 working prisoners). Unused capacities were mainly found in a new separate four-storey TB unit with some 220 beds, which was accommodating only 48 TB patients. The Hospital Director informed the delegation that, due to infection risks, no other somatic patients could be placed in that part of the establishment.

In the light of the above, **the CPT recommends that steps be taken to:**

- **reduce occupancy levels in the rooms on the psychiatric ward, in particular by using the rooms that had been occupied by somatic patients** (see, in this connection, paragraph 112);
- **refurbish the rooms in need of repair and replace missing window panes;**
- **renovate the sanitary facilities;**
- **install an efficient heating system;**
- **assist patients to maintain good personal hygiene.**

114. Treatment consisted essentially of pharmacotherapy. There were generally no problems with the supply of psychiatric medication (although newer-generation neuroleptics were not available). However, there were no individualised written treatment plans for patients. Further, the overall possibilities for treatment and activities of psychiatric patients within the ward were only rudimentary and consisted of basic recreational activities (e.g. watching TV, playing board games in their rooms). Patients had free access to the spacious hospital garden (when their state of health permitted it), but there was no day room or other facilities for any therapeutic, rehabilitative or recreational activities.

**The CPT reiterates the recommendation made in the report on its 2002 visit that the treatment of patients in the psychiatric ward be improved, the objective being to offer a range of therapeutic and rehabilitative activities, including access to occupational therapy, group and individual psychotherapy and possibly educational activities and suitable work. This will require the setting up of appropriate facilities within the ward and the drawing-up of individual treatment plans.**

115. The ward-based health-care staff was composed of three psychiatrists (including one civilian psychiatrist),<sup>70</sup> one feldsher and three orderlies.<sup>71</sup> A fourth post for an orderly had remained vacant for over one year. The psychiatrists and the feldsher were present on the ward five days a week from 9 a.m. to 6 p.m. Orderlies worked 24-hour shifts (with no orderly present every fourth day).<sup>72</sup> The most significant problem was the lack of ward-based multi-disciplinary clinical staff (psychologists, occupational therapists, etc.).<sup>73</sup>

**The CPT recommends that the Armenian authorities take steps at the Prison Hospital's psychiatric ward to ensure the regular presence of specialists qualified to provide therapeutic and rehabilitative activities, such as psychologists and occupational therapists. In addition, efforts should be made to increase the number of ward-based feldshers/nurses and to fill the vacant orderly's post.**

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<sup>70</sup> In addition, a visiting senior psychiatric consultant was present twice a week.

<sup>71</sup> There was also one prison officer ("controller") working in the ward at any given time. The "controllers" were acting under the instructions of health-care staff.

<sup>72</sup> During the night and at week-ends, a doctor, one or two feldshers and a nurse were on duty in the hospital.

<sup>73</sup> There was one psychologist for the whole hospital.

116. The CPT is pleased to note that the isolation room, which had been criticised in 2002 for not offering appropriate conditions, had been withdrawn from service. According to staff, mechanical restraints were not used and violent/agitated patients were transferred to an outside psychiatric hospital. That said, there was no specific register of instances of restraint (be it manual control, mechanical or chemical restraint). The delegation was informed about plans to establish such a register in accordance with new Ministry of Health regulations of 3 May 2010 (see paragraph 144). **The CPT would like to receive confirmation that such a register has been set up at the Prison Hospital's psychiatric ward.**

f. suicide prevention

117. Suicides or suicide attempts appeared to be very rare events in the establishments visited. However, the CPT is concerned by certain extreme measures that may be taken when a prisoner is considered to be a particularly high suicide risk. At Nubarashen Prison, a life-sentenced prisoner identified as suicidal had been kept in his cell, hand- and ankle-cuffed to his bed for more than one month between December 2009 and January 2010. At no point was he sent to a hospital facility. The cuffs were removed by staff for him to go to the in-cell toilet or during mealtimes. According to the prisoner concerned, the measure was ended after he managed to remove the cuffs himself.

In the CPT's opinion, to immobilise a prisoner for such a long period could be considered as amounting to inhuman and degrading treatment. Further, the immobilisation of an inmate who is mentally distressed cannot be considered by itself to constitute a properly effective suicide prevention measure. Suicide prevention is a matter falling within the purview of prison health-care services. They should ensure that there is an adequate awareness of this subject throughout the establishment, and that appropriate procedures are in place. A prisoner showing severe signs of suicidal behaviour should be placed under the direct supervision of a psychiatrist, preferably in a suitably equipped medical facility. An individualised care programme, involving a multi-disciplinary team (including staff providing professional psychological support), should be drawn up, monitored and reviewed. In addition, the person concerned should always be held in safe conditions, with no easy access to means of killing himself (cell window bars, broken glass, belts or ties, etc.). **The CPT recommends that the Armenian authorities discontinue their current practice in respect of inmates considered to be particularly high suicide risk and introduce appropriate suicide prevention procedures in prison, in the light of these remarks.**

g. hunger strikes

118. The CPT has misgivings about the treatment of prisoners on hunger strike. During the 2010 visit, the delegation observed that such prisoners were generally given a special uniform and segregated in a special cell, within or next to the disciplinary unit, which was equipped in the same way as disciplinary cells. The Committee wishes to stress that hunger strikes should be approached from a therapeutic rather than a punitive standpoint. In this context, the inmates concerned should be accommodated in suitable facilities where their state of health can be placed under appropriate medical supervision. Further, they should not be held in conditions inferior to those of other prisoners. **The CPT recommends that the Armenian authorities review their policy for the management of prisoners on hunger strike, in the light of the preceding remarks.**

## 7. Other issues of relevance to the CPT's mandate

### a. prison staff

119. The CPT's delegation found that the number of prison staff working in direct contact with inmates in most of the prison establishments visited was very low. In actual terms, there was on average one prison officer, working a 24-hour shift, for more than 60 inmates at Nubarashen Prison and one prison officer for more than 80 prisoners at Kosh Prison.<sup>74</sup> Further, there was no appropriate security equipment (such as personal radios or alarm systems) available to staff, a state of affairs that could prove prejudicial for staff and prisoners alike. For instance, at Kosh Prison, staff members indicated to the delegation that, in the event of a disturbance, they would "shout loudly and hope that a colleague would hear them". Similarly, they could experience delays in obtaining support for a sick or critically injured inmate (see, in this respect, paragraph 100).

The reliance on prisoner "leaders" for the maintenance of good order in prison (see paragraph 67) was partly a consequence of this situation.

A low staff complement and/or specific staff attendance and deployment systems which diminish the possibilities of direct contact with prisoners, increases the risk of inter-prisoner intimidation and of staff-inmate tension, precludes the emergence of dynamic security and has a negative influence on the quality and level of the activities provided to prisoners. Further, the Committee considers that the above-mentioned 24-hour shift pattern negatively affects professional standards. At the same time, the practice of delegating authority to prisoner "leaders" and using them to keep control over the inmate population is an abrogation of the responsibility for order and security – which properly falls within the ambit of prison staff – and exposes weaker prisoners to the risk of being exploited by their fellow inmates.

**The CPT recommends that the Armenian authorities take steps to increase staffing levels and change the staff attendance system in the prison establishments visited, in the light of the above remarks. The action taken should also be founded on the requirement to provide all categories of prisoner with a full range of activities (as well as daily outdoor exercise).**

### b. discipline

120. It should be recalled that remand prisoners may be placed in a disciplinary cell for up to 10 days and sentenced prisoners for up to 15 days. Upon examination of the relevant documentation, these time-limits appeared to be generally respected. However, the delegation came across a few cases where sentenced prisoners were confined to a disciplinary cell for 20 days. Staff explained that this may occur when a new breach of discipline is committed during disciplinary confinement. **The CPT would like to receive clarification of this issue.**

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<sup>74</sup> The situation at Vardashen Prison was more favourable, with on average one prison officer for some 20 prisoners.

121. The procedure contained in the Internal Prison Regulation still does not guarantee the right of prisoners facing disciplinary charges to be heard in person. Further, it was clear that prisoners were not given reasonable time to prepare their defence and were not informed of the possibilities of appeal. **The CPT recommends that the Armenian authorities review the procedure for placement in disciplinary cells in order to ensure that the prisoners concerned (i) are informed in writing of the charges against them, (ii) are given reasonable time to prepare their defence, (iii) have the right to be heard in person and to call witnesses on their own behalf and to cross-examine evidence given against them, and (iv) are provided with a copy of the decision which contains the reasons for placement and straightforward information on their rights, including the right to legal assistance and the means available to them to challenge the decision before an independent authority.**

The involvement of health-care staff in the disciplinary procedure has been an area of concern for the CPT in the past.<sup>75</sup> It appeared from the documentation consulted during the 2010 visit that health-care staff continued to certify that prisoners were fit for placement in a disciplinary cell.<sup>76</sup> This is not acceptable. **The CPT reiterates its recommendation that the existing legal arrangements and practice concerning the role of health-care staff in relation to disciplinary matters be reviewed.**

122. At Kosh Prison, material conditions of detention in the disciplinary cells were generally acceptable. The cells were of an adequate size for their intended occupancy (e.g. four beds in a cell of 18 m<sup>2</sup>), well lit and equipped (including beds, a table, stools, a partitioned toilet and a water tap). That said, certain cells needed refurbishment and the shower room was in an advanced state of dilapidation. **The CPT recommends that these shortcomings be remedied.**

At Vardashen Prison, the three admission cells which were used as disciplinary cells when required offered adequate conditions in terms of living space, in-cell lighting and equipment. On a few occasions, prisoners were transferred to disciplinary cells at Erebuni Prison, although Vardashen Prison's admission cells were not occupied. **The CPT would like to receive the remarks of the Armenian authorities on this matter.**

Conditions in the disciplinary cells at Nubarashen Prison were appalling. The cells were in a decrepit state (including the in-cell toilet), humid and with virtually no access to natural light. By letter of 6 September 2010, the Armenian authorities informed the CPT that these cells were being refurbished. **The Committee would like to receive detailed information on the refurbishment work that has been done.**

123. Prisoners placed in disciplinary cells generally benefitted from one hour of outdoor exercise per day. However, at Nubarashen Prison, some prisoners made credible allegations that they had not been allowed to take outdoor exercise during the whole of their disciplinary confinement. **The CPT recommends that all prisoners placed in disciplinary cells at Nubarashen Prison be provided with at least one hour of outdoor exercise every day.**

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<sup>75</sup> See paragraph 96 of CPT/Inf (2007) 47.

<sup>76</sup> For instance, decisions on placement seen by the delegation contained the following conclusions signed by the doctor: "on the basis of the examination of his state of health, the prisoner can be held in a disciplinary cell".

Further, prisoners placed in disciplinary confinement were still not allowed access to reading material.<sup>77</sup> **The CPT recommends that the relevant regulations be amended to remedy this deficiency.**

It should be added that inmates placed in disciplinary cells are automatically deprived of contact with the outside world (i.e. visits, phone calls and letters). **The CPT recommends that the Armenian authorities take measures to ensure that placement of prisoners in a disciplinary cell does not include a total prohibition on family contacts.**<sup>78</sup> **Further, any restrictions on family contacts as a form of punishment should be imposed only where the offence relates to such contacts.**

c. contact with the outside world

124. Remand prisoners can have two short visits (of up to three hours) per month, unless a particular visit is prohibited by a written and reasoned decision of the body conducting the criminal proceedings. Sentenced inmates are generally entitled to one short visit (of up to 4 hours) per month and one long term visit (of up to 72 hours) every two months.<sup>79</sup> The visiting entitlements of prisoners serving sentences for particularly serious crimes are restricted to three short visits per year and one long visit per year. **The CPT invites the Armenian authorities to increase the visit entitlements of both remand and sentenced prisoners so as to ensure that they have the right to receive more frequent visits (e.g. one short visit per week, with the possibility of accumulating visit entitlements for periods during which no visits have been received).** Further, **the recommendation made in paragraph 73 as regards life-sentenced prisoners applies equally to inmates serving sentences for particularly serious crimes.**

Facilities for short and long visits in the establishments visited generally offered adequate conditions. However, at Kosh Prison, the waiting list for visits was allegedly managed by prisoner “leaders”. This is not acceptable. **The CPT recommends that action be taken at Kosh Prison to ensure that the management of visits remains the prison administration’s prerogative.**

125. Armenian legislation provides that prisoners should have access to a telephone (unless prohibited by the body conducting the criminal proceedings, in the case of remand prisoners). Actual entitlements were determined by each penitentiary establishment.<sup>80</sup>

At Nubarashen and Vardashen Prisons, it appeared that prisoners generally had no problems in making phone calls. However, at Kosh Prison, the delegation received many complaints about access to the telephone, due to the fact that there were only two telephones for the whole inmate population (one of which was out of order at the time of the visit). **The CPT recommends that access to the telephone be improved at Kosh Prison.**

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<sup>77</sup> See Section 26 of the Internal Prison Regulations.

<sup>78</sup> See also Rule 60 (4) of the European Prison Rules.

<sup>79</sup> See Section 15 of the Law on the Treatment of Arrestees and Detainees and Section 92 of the Penitentiary Code.

<sup>80</sup> Prisoners were generally entitled to one phone call a week.



126. Several remand prisoners with whom the delegation spoke indicated that they had been told by police investigators that visits and phone calls would remain prohibited until they made confessions. The use of any such methods should be considered unacceptable and are not in the interests of a proper administration of justice. **The CPT recommends that the Armenian authorities take effective steps to ensure that the rights of remand prisoners to receive visits and to have access to the telephone are not unduly restricted. Any prohibition on visits should be specifically substantiated by the needs of the investigation or security considerations, require the approval of a judicial authority and be applied for a specified period of time, with reasons stated. Further, any decision to prohibit or impose restrictions on a given remand prisoner's access to the telephone should be based on a substantiated risk of collusion, intimidation or another illegal activity and be for a specified period. If necessary, the appropriate legal framework should be amended.**

d. complaints and inspection procedures

127. The Armenian legislation provides that prisoners have the right to address complaints to outside national and international bodies.<sup>81</sup> However, the delegation received several allegations from prisoners that their letters, including ones addressed to the CPT, had been returned to them, after having been opened. Further, at Nubarashen Prison, some prisoners indicated that they had been threatened by staff with disciplinary sanctions if they made complaints. **The Committee recommends that the Armenian authorities ensure that the right of prisoners to lodge complaints is fully effective, by guaranteeing *inter alia* that complainants are free from reprisals. In this context, the complaints procedures should be reviewed so as to safeguard the confidential character of prisoners' correspondence with outside complaints and inspection bodies (including the CPT). In this context, the CPT would like to stress that any action by prison staff to vet or read prisoners' letters addressed to the Committee would be considered as a violation of the principle of co-operation set out in Article 3 of the Convention.**

128. In the report on the 2006 visit, the Committee welcomed the development of inspection procedures, in particular the setting-up of a Prison Public Monitoring Group. It appeared during the 2010 visit that the monitoring group had continued to carry out frequent and unannounced visits to all penitentiary establishments in Armenia. Further, there were regular visits by prosecutors and staff of the Human Rights Defender's Office, as in the past. **The CPT trusts that the Armenian authorities will continue to promote the independent monitoring of prison establishments** (see also paragraph 8).

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<sup>81</sup> See Section 13 of the Law on the Treatment of Arrestees and Detainees and Section 12 of the Penitentiary Code.

## **E. Psychiatric establishments**

### **1. Preliminary remarks**

129. The CPT's delegation carried out a follow-up visit to the Secure Unit of Nubarashen Republican Psychiatric Hospital in Yerevan, the aim of which was to assess the changes made since the CPT's previous visit in 2002,<sup>82</sup> and a first-time visit to the Nork Centre of Mental Health in Yerevan.

130. At the time of the 2010 visit, the Secure Unit of Nubarashen Psychiatric Hospital consisted of two wards: Ward 6 for persons under forensic psychiatric assessment and Ward 7 for patients undergoing compulsory treatment pursuant to the provisions of the Code of Criminal Procedure (hereinafter "forensic" patients). The other ward for "forensic" patients (Ward 5) had been closed down in 2003 and was to be entirely refurbished. Ward 6 had a capacity of 10 beds and was accommodating eight remand detainees (including one juvenile) and two sentenced prisoners. Ward 7 (with a capacity of 50 beds) was accommodating 53 "forensic" patients, including two women.<sup>83</sup>

131. Yerevan Nork Centre of Mental Health, which opened in 1960, is situated on the outskirts of Yerevan, where it occupies extensive grounds surrounded by a perimeter fence. With an official capacity of 125 beds (including 50 beds for psychiatric assessment of conscripts), the establishment was accommodating 73 psychiatric patients and 48 conscripts. Psychiatric patients were accommodated on three wards: Ward 1 for short stays<sup>84</sup> (mixed gender), Ward 2 for women, and Ward 3 for longer stays (generally male patients, including 10 "forensic" patients)<sup>85</sup>.

All "civil" patients – except for one<sup>86</sup> – were formally considered as voluntary. However, all wards were locked and patients were not free to leave unless authorised by staff. The information gathered during the visit indicated that a significant proportion of the patients were de facto involuntary even if this was not confirmed by any formal procedure (see paragraph 148).

### **2. Ill-treatment**

132. The delegation heard no allegations of ill-treatment of patients by staff at the two psychiatric establishments visited. At the Nork Centre of Mental Health, the delegation observed that the atmosphere was relaxed and that staff had a caring and respectful attitude towards patients. Further, inter-patient violence did not appear to be a problem at either institution.

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<sup>82</sup> CPT/Inf (2004) 25, paragraph 103 and following.

<sup>83</sup> A further 36 "forensic" patients were accommodated on other, general wards of the hospital.

<sup>84</sup> Up to 24 days.

<sup>85</sup> The average stay for chronic patients was 3-4 months (longest one year), and the average stay for "forensic patients" was 2-4 years (longest 11 years)

<sup>86</sup> At the time of the visit, a court procedure had been initiated in his respect.

133. The Secure Unit of Nubarashen Psychiatric Hospital was still guarded by security officers employed by the Ministry of Internal Affairs<sup>87</sup> but the atmosphere had improved; in particular, following a CPT recommendation in 2002, guard dogs were no longer deployed in the courtyard. Security officers were prohibited from entering the wards, except in the case of an emergency when they had to act exclusively upon instructions of health-care staff.

### 3. Patients' living conditions

134. During its follow-up visit to the Secure Unit of Nubarashen Psychiatric Hospital, the delegation was pleased to note that the metal shutters covering the windows in Ward 6 had been removed. However, conditions on that ward remained unacceptably harsh and did not contribute to a positive, therapeutic environment. On Ward 7, lighting and ventilation, levels of hygiene and bedding were acceptable but some dormitories were overcrowded (e.g. 8 patients in 24 m<sup>2</sup>), with beds touching and little space to walk around. Further, the two female patients on Ward 7, accommodated in a room of 12 m<sup>2</sup> near the canteen, lacked privacy as they could be viewed by male patients passing through the barred gate.

On both wards, the dormitories and equipment were dilapidated and impersonal, and they offered no privacy; nothing had been done to diminish the prison-like, austere and depersonalised impression described in the report on the visit in 2002. Dormitories were fitted with barred gates and there were still no personal lockable areas in which to keep the patients' belongings. Further, there was no day room and patients spent at least 19 hours per day in the locked dormitories, without guaranteed TV or radio access.

The CPT supports the Armenian authorities' plans to refurbish the ground floor of the Secure Unit of Nubarashen Psychiatric Hospital (former Ward 5) and **trusts that this will allow the re-organisation of the patient accommodation areas with a view to reducing occupancy levels in the dormitories and creating a clearly separate area of the ward for women.**

Further, **the Committee recommends that the Armenian authorities:**

- **offer patients a more congenial and personalised environment and provide them with personal lockable space for their belongings;**
- **establish proper day rooms sufficient for the number of patients being held.**

135. Material conditions at Yerevan Nork Centre of Mental Health varied between the wards. Ward 1 had been partly renovated and offered a comparatively better environment (in particular, there were only 12 patients for a capacity of 20). In contrast, Ward 2 and Ward 3 were rather dilapidated and overcrowded (i.e. 4 patients in a room of some 10 m<sup>2</sup>; 7 patients in a room of 23 m<sup>2</sup>). Ward 3 had an intended capacity of 30 but was accommodating 38 patients, with some extra beds placed in the corridor. That said, patients were free to move within the wards.

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<sup>87</sup>

See paragraph 168 of CPT/Inf (2004) 25.

Lighting, ventilation, levels of hygiene (including in the sanitary facilities) and bedding were generally acceptable in all the wards. However, the dormitories were mostly impersonal and austere, and many patients had no place to keep their personal belongings, which was particularly striking on Ward 3 (where some patients had resided for over 8 years). Further, there was a lack of day room facilities.

**The CPT recommends that occupancy levels in patients' rooms at Yerevan Nork Centre of Mental Health, in particular on Ward 3 be reduced, and that no patients are accommodated in the corridors.**

Further, **the Committee recommends that the Armenian authorities:**

- **offer patients a more congenial and personalised environment and provide them with personal lockable space for their belongings;**
- **establish proper day rooms sufficient for the number of patients being held.**

136. The delegation was concerned that in both establishments visited, juveniles were occasionally accommodated together with adults (at the time of the visit, there was a 15-year-old girl at Yerevan Nork Centre of Mental Health and a 17-year-old boy at the Secure Unit of Nubarashen Psychiatric Hospital). **In view of their vulnerability and special needs, juveniles should be provided with adequately protected accommodation, in a clearly separate area of the ward concerned. Naturally, this should not prevent juveniles from participating in rehabilitative psycho-social and recreational activities with adults, under appropriate supervision by staff.**

#### **4. Staff**

137. At the Secure Unit of Nubarashen Psychiatric Hospital, staff on Ward 6 consisted of one full-time psychiatrist, one head nurse, four nurses and eight orderlies. As for Ward 7, staffing was identical, except that there were two additional nurses. Nurses and orderlies were working 24-hour shifts, there being one nurse and two orderlies in each ward at night and at week-ends. Further, one doctor was on duty for the whole hospital after working hours.

As regards psychiatrists, the situation on Ward 7 has deteriorated compared with 2002 (when there were two full-time doctors<sup>88</sup>) and the current psychiatrist/patient ratio cannot be considered adequate. Further, the staff resources in terms of nurses and orderlies in Ward 7 are insufficient. It also appeared during the visit that very little specialised training was provided to nurses and orderlies, a situation already criticised in 2002.

Moreover, as regards both Ward 6 and Ward 7, the absence of psychologists<sup>89</sup> and other staff qualified to provide therapeutic activities clearly precluded the emergence of a therapeutic milieu based on a multidisciplinary clinical approach.

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<sup>88</sup> There had been two more full-time doctors on the former Ward 5.

<sup>89</sup> There was only one psychologist for the whole hospital.

The CPT recommends that the Armenian authorities take steps at the Secure Unit of Nubarashen Psychiatric Hospital to:

- **increase the number of psychiatrists, nurses and orderlies on Ward 7;**
- **provide nursing staff with specialised (initial and ongoing) training in psychiatry, including relating to patients' rights;**
- **employ specialists qualified to provide therapeutic and rehabilitative psycho-social activities (e.g. psychologists, occupational therapists, psychotherapists and social workers).**

138. At the time of the visit, there were 88 staff members at Yerevan Nork Centre of Mental Health, including 14 full-time psychiatrists, four head nurses, 32 nurses and 32 orderlies (all employed on a full-time basis). On each ward, there were two psychiatrists and one head nurse present during the day, and one nurse and two orderlies working 24-hour shifts. As regards other staff qualified to provide therapeutic activities, there were three psychologists, one occupational therapist and two social workers.

There were no vacant posts at the time of the visit and the psychiatrist/patient ratio could be considered sufficient. However, as regards nurses, staffing levels were inadequate. Further, there was scope for a greater contribution from clinical psychologists, occupational therapists and social workers, with a view to strengthening the multidisciplinary approach. **The CPT recommends that the Armenian authorities take steps at Yerevan Nork Centre of Mental Health to:**

- **increase the nursing staff/patient ratio on the wards;**
- **reinforce the team of specialists qualified to provide therapeutic and rehabilitative psycho-social activities.**

## **5. Treatment**

139. In both establishments, the treatment provided to patients was mainly based on pharmacotherapy. There was no evidence of overmedication. Further, the supply of basic psychiatric medication appeared to be adequate. Patients were seen by a psychiatrist on a regular basis and observations were recorded in the patient's file; however, no individual treatment plans were in evidence in the records examined in either of the establishments.

140. In Nubarashen Psychiatric Hospital, it became clear during the visit that rehabilitative psycho-social activities were still lacking and there was no evidence of a multidisciplinary clinical team approach. As a result of the paucity of structured therapeutic activities, the majority of patients spent most of the time locked up in their dormitories, lying on their beds or wandering idly around. This monotonous existence was broken only by meals, outdoor exercise and watching TV in the wards corridors. As regards in-room activities, they consisted of board games, reading books and newspapers brought by families and – for patients who could afford one – watching their own TV.

In contrast, at Yerevan Nork Centre of Mental Health, the importance of rehabilitation was acknowledged by the management and efforts were made to offer some multidisciplinary rehabilitative activities to patients. However, these activities (e.g. painting or knitting), were of a rather sporadic nature and were not embedded in a systematic individual treatment plan. As to recreational activities, they consisted of watching TV, playing board games and reading.

**141. The CPT reiterates the recommendation made in the 2002 visit report that the Armenian authorities strive to develop the possibilities for therapeutic and psycho-social rehabilitation activities at the Secure Unit of Nubarashen Psychiatric Hospital. At the Nork Centre of Mental Health, efforts should be made to expand the range of therapeutic options and involve more patients in rehabilitative psycho-social activities, in order to prepare them for independent life and a return to their families. Any juvenile patients accommodated in the establishments should be offered specific programmes relevant to adolescent psychiatric patients, including education.**

**At both establishments, occupational therapy should be an integral part of the rehabilitation programme, providing motivation, development of learning and relationship skills, acquisition of specific competences and an improved self-image.**

**Further, steps should be taken to draw up an individual treatment plan for each patient, composed of both pharmacotherapy and a wide range of rehabilitative and therapeutic activities, including the goals of the treatment, the therapeutic means used and the staff members responsible.**

142. As for outdoor exercise, the 2009 amendments to the Law on Psychiatric Assistance (LPA) include a right for patients to have daily access to fresh air.<sup>90</sup> However, it became apparent in both establishments that some patients rarely left the wards, apparently due to the absence of secure outdoor exercise areas at Yerevan Nork Centre of Mental Health and Ward 6 at Nubarashen Psychiatric Hospital. Further, conditions for outdoor exercise for “forensic” patients in Ward 7 at Nubarashen, which had been criticised in the 2002 visit report,<sup>91</sup> remained unchanged: the yard was small (some 30 m<sup>2</sup>), surrounded by a fence, and with no shelter against inclement weather.

**The CPT recommends that steps be taken to ensure that all patients at the Secure Unit of Nubarashen Psychiatric Hospital and Yerevan Nork Centre of Mental Health whose health so permits have access to one hour of outdoor exercise per day. Further, the Committee recommends that immediate steps be taken to improve the conditions under which patients take outdoor exercise at Nubarashen Psychiatric Hospital.**

143. The delegation was also informed that patients at the Nork Centre of Mental Health could not benefit from accompanied or unaccompanied leave (for instance, for local shopping trips). **The CPT invites the Armenian authorities to explore possibilities for granting leave to patients to assist with rehabilitation and to counter the adverse effects of hospitalisation.**

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<sup>90</sup> Section 22, paragraph 1.9 of the LPA.

<sup>91</sup> See paragraph 177 of CPT/Inf (2007) 47.

## 6. Means of restraint

144. For more than seven years, the CPT's long-standing recommendation that a policy for the use of means of restraint be adopted<sup>92</sup> had remained to be implemented. That said, the adoption of specific guidelines by the Ministry of Health shortly before the 2010 visit is clearly a step forward.<sup>93</sup> The guidelines specify that restraint belts should only be used as a last resort, that their application should be ordered by a medical doctor and should not exceed 4 hours (2 hours for 9-17 year olds). In addition, the patient should be under surveillance by medical staff at all times and should be examined by a medical doctor at least once per hour (with records made in the register). If the application of restraint is to be extended beyond the above time-limits, the head of the ward or clinic must give his authorisation. Further, the guidelines introduce a specific register for the use of means of restraint (indicating the name of the patient, diagnosis, reason for use of means of restraint, duration of application, hourly reviewing of the restraint by a doctor, and information on any injuries caused to staff or the patient resulting from means of restraint).

The new guidelines were yet to be implemented in the establishments visited, but the delegation noted that, as a first step, registers for the use of means of restraint had been established on each ward (at the time of the visit, the registers were still empty). **The CPT trusts that the Armenian authorities will ensure that all instances of restraint are systematically recorded in the new registers.**

145. Individual seclusion was not practised in either establishment. Mechanical restraint consisted of fixation of a patient to a bed with soft restraints (e.g. twisted sheets), or "wrapping" of a patient's upper body ("straightjacket" effect) or the whole body in sheets. The measure was ordered by a doctor and usually lasted only the time for the sedative injection to take effect (up to three hours).

However, at Yerevan Nork Centre of Mental Health, restraining of patients took place in the full view of other patients who were sometimes even asked to help staff.

**The CPT recommends that the Armenian authorities ensure that the application of mechanical means of restraint to a patient does not take place in the sight of other patients, unless the patient concerned explicitly requests otherwise or when the patient is known to have a preference for company. Means of restraint should be applied to a patient in a room specially designed for that purpose and staff should not be assisted by other patients when applying means of restraint. Once the means of restraint have been removed, a debriefing of the patient should take place.** This provides the occasion to explain the rationale behind the measure, thus reducing the psychological trauma of the experience as well as restoring the clinician-patient relationship. It also gives the patient the opportunity to explain his/her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour.

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<sup>92</sup> See paragraph 188 of CPT/Inf (2004) 25 and paragraph 120 of CPT/Inf (2007) 47.

<sup>93</sup> Guidelines for applying physical restraint to individuals with mental disorders in organisations providing psychiatric medical assistance and service", adopted on 3 May 2010 by Order No. 69/A of the Ministry of Health.

## 7. Safeguards

146. It should be recalled that the Code of Criminal Procedure (CCP) provides for compulsory medical measures in respect of persons found to be criminally irresponsible for their acts or who develop a mental illness after committing a punishable act (“forensic commitment”) on the basis of a forensic psychiatric assessment by an inter-ministerial psychiatric commission.<sup>94</sup> The placement is ordered by a court for an indefinite period of time, but the hospital’s internal psychiatric commission, which performs six-monthly assessments of the patient, can recommend to the court that the patient be discharged. Further, any interested persons (including the patients’ relatives and legal representatives) can apply for a court review of the placement order.

Interviews with the patients and staff during the 2010 visit and a review of patients’ files indicated that the placement procedure prescribed by law had been followed, with the hospital’s psychiatric commission regularly (i.e. every six months) reviewing each patient’s case. Further, it appeared that patients were generally heard in person by the commission members. However, the delegation noted that patients were not systematically informed in writing about the psychiatric commission’s findings and had no access to legal assistance, which prevented them from applying for a court review of the commission’s decision on continued placement. Further, it appeared that patients rarely appealed the court’s decision not to grant discharge, even in the event of a positive recommendation of the psychiatric commission.

**The CPT recommends that “forensic” patients be systematically informed of the decision of the psychiatric commission and the court decision (and be given a copy of these documents), as well as of the legal remedies available to challenge them. Further, legal assistance to such patients should be ensured** (see also paragraph 150).

147. Since the 2006 visit, the LPA, which regulates involuntary (civil) psychiatric hospitalisation,<sup>95</sup> has been supplemented by a series of amendments and implementing regulations. In particular, the time-limit for a court application after involuntary admission of a patient has been extended to 72 hours (previously 48 hours) and patients’ rights have been spelled out (i.e. right to legal assistance, right to make complaints, communication with the outside world and information on rights).

Despite the above amendments made to the LPA, there are still some serious lacunae in the area of safeguards: the criteria for involuntary hospitalisation are still not clearly spelled out in legislation. Further, as regards discharge, no periodic review of involuntary placement is provided for by the law. **The CPT reiterates the recommendations made in the report on the visit in 2006 that steps be taken to:**

- **clearly spell out in the relevant legislation the criteria justifying involuntary hospitalisation;**
- **ensure a periodic review of involuntary hospitalisation decisions, which should take place at least once every six months.**

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<sup>94</sup> See paragraph 190 of CPT/Inf (2004) 25 and Sections 464 (1) and 471 of the CCP; the inter-ministerial psychiatric commission is composed of five psychiatrists, including one from the Ministry of Justice and one from the Ministry of Health (Governmental Decree of 4 December 2004).

<sup>95</sup> See CPT/Inf (2007) 47, paragraph 122.



148. The delegation's findings suggest that the court procedure for civil commitment to a psychiatric hospital was rarely used in practice and the patients who had been placed in a psychiatric facility against their will could not benefit from appropriate safeguards. At Yerevan Nork Centre of Mental Health, this procedure had been initiated only in respect of one patient at the time of the visit (out of 63 "civil" patients). From discussions with the hospital management it became apparent that the involuntary placement procedure was only initiated in respect of those patients who did not want to sign a paper on "voluntary" admission within the first 72 hours and/or who actively resisted their hospitalisation.<sup>96</sup> However, as already mentioned, patients were kept in locked wards and many patients with whom the delegation spoke declared that they were being held in the institution against their will, and wished to be discharged.

No precise statistics on the number of involuntary admissions according to the procedure provided for in the LPA were available, but it was indicated to the delegation that there were about 10 patients throughout Armenia hospitalised under this procedure at the time of the visit.

**The CPT reiterates the recommendation made in the report on its 2006 visit that steps be taken to ensure that the provisions of the LPA on involuntary civil hospitalisation are fully implemented in practice. This will involve training of all structures and persons concerned (in particular, health-care staff, hospital management and judges). To monitor the implementation of the new legislation, statistics on involuntary admissions (which could be broken down by diagnosis, gender, hospital, length of stay, etc.) should be compiled at national and establishment level.**

149. Concerning a patient's consent to treatment, Section 15 (3) of the LPA stipulates that patients (including involuntary patients) have the right to refuse treatment, except in the case of "forensic" patients.

In the Committee's opinion, the admission of a person to a psychiatric establishment on an involuntary basis, whether the person concerned be a civil or a "forensic" patient, should not be construed as authorising treatment without his/her consent. Every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. If a patient is to be medicated against his/her informed consent, there should be clear criteria for this and procedures by which this can be authorised (which should allow for a second, independent, medical opinion in addition to that of the doctor(s) proposing the treatment). **The CPT recommends that the Armenian authorities take steps to reflect, in both law and practice, the principle of a patient's consent to treatment and the above-mentioned requirements as regards treatment without consent.**

150. The above-mentioned amendments to the LPA include the right of psychiatric patients to receive legal assistance,<sup>97</sup> but the practical provision of free legal assistance remains to be regulated. **The CPT would like to receive further information on this subject. Further, it would like to receive information on whether free legal assistance can also be provided to "forensic patients".**

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<sup>96</sup> Pursuant to the 2009 amendments to the LPA, discharge of a voluntary patient is to be done according to a medical opinion or upon the patient's request if he/she does not present a danger to society. Otherwise, pursuant to a doctor's request, he might be transferred to involuntary placement (Section 21 of the LPA).

<sup>97</sup> Section 22, paragraph 1.6, of the LPA.

151. The right of patients to be informed of their rights in their mother tongue or a language that they understand has been introduced in the LPA.<sup>98</sup> However, it transpired during the visit that patients at the establishments visited were not being provided with an introductory brochure. **The CPT reiterates its previous recommendation that an introductory brochure setting forth the hospital routine and patients' rights (including information on avenues for complaint) be devised and issued to each patient on admission, as well as to their families/guardians. Any patients unable to understand this brochure should receive appropriate assistance.**

152. In respect of contact with the outside world, there were no limitations on correspondence and visits from relatives.<sup>99</sup> However, as regards access to a telephone, there were no pay phones at either establishment and patients had to request permission to use an office phone. **The CPT urges the Armenian authorities to facilitate psychiatric patients' access to a telephone.**

153. As regards complaints procedures, patients could complain to the director and to a number of outside bodies, in particular, courts, the prosecutor, the Human Rights Defender and national or local authorities.<sup>100</sup> Further, a telephone hotline for complaints had been established by the Ministry of Health. That said, because of the above-mentioned problems of access to a telephone and difficulties in sending letters on a confidential basis, it was practically impossible for patients to make a confidential complaint. **The CPT urges the Armenian authorities to introduce a formal system for lodging complaints in a confidential manner (including a register of complaints and a possibility to appeal). In this context, the introduction of complaints boxes (with restricted staff access) should be considered.**

154. As regards external supervision, in addition to visits by the supervising prosecutor, psychiatric hospitals can be visited by the Human Rights Defender and representatives of civil society. However, it appeared that visits by the latter two bodies were sporadic. **The CPT recommends that the Armenian authorities develop a system of regular visits by an independent body to psychiatric hospitals. This body should be authorised, in particular, to talk privately with patients, examine all issues related to their living conditions and treatment, receive directly any complaints which they might have and make any necessary recommendations.**

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<sup>98</sup> Section 22, paragraph 1.1, of the LPA.

<sup>99</sup> See Section 22, paragraph 1.8, of the LPA which grants involuntary psychiatric patients "the right to maintain contacts with the outside world by means of newspapers and magazines, mail and meetings with visitors".

<sup>100</sup> See Section 22, paragraphs 1.4 and 1.11, of the LPA.

## **F. Social care homes**

### **1. Preliminary remarks**

155. The delegation visited for the first time in Armenia a social care establishment, namely Vardenis Nursing Home (“Internat”). The only establishment of its kind in Armenia, it is under the authority of the Ministry of Labour and Social Affairs. The nursing home had been moved to its current main site in 1993, a renovated former obstetric hospital building from the late 1980s situated on the edge of Vardenis. A second satellite site, about 2 km away, in the town, had been opened in 2008 in renovated facilities of the former district hospital.

With an official capacity of 370, at the time of the visit the institution was accommodating 390 residents<sup>101</sup> (169 men and 221 women), aged from 18 to 78 years. Residents were accommodated in seven wards: two male wards, two female wards and one mixed ward on the main site, and another two mixed wards on the satellite site. Each ward had a capacity of some 50 residents.

Approximately 60% of the residents suffered from schizophrenia, 35% from learning disabilities and a few from organic brain damage or dementia. Residents from both of the main diagnostic groups were in mixed wards. Further, there were reportedly plans to create a new 40-bed ward, which would allow the waiting list and the overcrowding on some of the existing wards to be reduced.

### **2. Ill-treatment**

156. Most of the residents interviewed by the CPT’s delegation spoke positively of the attitude of health-care staff. Further, relations between health-care staff and patients, as well as between the patients themselves, appeared quite relaxed.

That said, the delegation heard a few allegations of physical ill-treatment (e.g. slapping) of residents by ward-based staff; the ill-treatment alleged was said to occur in the context of residents becoming agitated or disobeying the staff’s orders. Further, several residents spoke of occasional rude behaviour and verbal abuse by ward-based staff. The delegation was informed by the management that in May 2009, five staff members had been dismissed in relation to physical ill-treatment of a resident.

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<sup>101</sup> Seventeen residents were on leave at the time of the visit. Regarding turnover, the delegation was informed that beds becoming vacant following discharge or deaths were quickly filled with new admissions, there being a waiting list in the Ministry of Labour and Social Affairs.

The CPT wishes to stress that, given the challenging nature of their job, it is essential that ward-based staff be carefully selected and given suitable training before taking up their duties, as well as ongoing training (including in control and restraint techniques). While carrying out their duties, such staff should also be subject to regular supervision. **The CPT recommends that the procedures for the selection of ward-based staff and both their initial and ongoing training and supervision be reviewed at Vardenis Nursing Home, in the light of the above remarks. Further, the institution's management should remain vigilant and make it clear to staff that all forms of ill-treatment of residents, including verbal abuse, are unacceptable and will be severely punished.**

### **3. Residents' living conditions**

157. The delegation gained a generally positive impression of residents' living conditions. The institution had been refurbished and residents' dormitories were clean, well lit and ventilated, occasionally with plants and some decoration. Further, the bedding was adequate with all beds neatly made. That said, the dormitories offered rather cramped sleeping conditions (e.g. up to ten residents in a room measuring 36 m<sup>2</sup>; up to six residents in a room measuring 16 m<sup>2</sup>) and lacked personalisation and privacy.

It is noteworthy that patients with differing mental health needs were often placed on the same ward. The CPT wishes to stress that residents with different needs, such as learning disabled persons and mentally-ill residents should preferably not be accommodated together. In the interests of residents, a differentiation should be made between the two groups at Vardenis Nursing Home; this would enable persons of both groups to receive a level of treatment which is adapted to their needs.

**The CPT recommends that steps be taken at Vardenis Nursing Home to reduce the occupancy levels in residents' dormitories and to provide more stratified accommodation to residents with differing mental health needs. In this context, the Committee would like to receive further information about the planned creation of a new 40-bed ward (see paragraph 155).**

**Further, efforts should be made to offer residents a more congenial living environment, including by providing them with personal lockable space for their belongings.**

158. Both general hygiene and residents' personal hygiene were of a good standard. Residents had unlimited access to communal toilet facilities on the wards and could take showers twice a week. Further, the sanitary facilities were functional.

159. Concerning food, the delegation received many complaints about the lack of variety and the absence of meat. Despite repeated requests, the delegation could not obtain details on the food provided. In their letter of 6 September 2010, the Armenian authorities indicated that measures were already underway to revise the list of dishes and increase the variety of the food. The CPT welcomes this development and **would like to receive further information on the food provision at Vardenis Nursing Home (overall budget, daily nutritional values, standard menus, etc.).**

#### 4. Staff and care of residents

160. The institution employed a total of 430 staff members. Health-care staff comprised 7 doctors (one psychiatrist, two general practitioners, one neurologist, one laboratory doctor, one ultrasound specialist and one stomatologist). Two more posts of psychiatrist had been vacant for some time.<sup>102</sup> There was no doctor present at night or on week-ends.

There was a head nurse for the establishment as well as seven senior nurses, 46 nurses and 95 orderlies working 24-hour shifts on the wards and, in addition, there were a number of specialised nurses and orderlies.<sup>103</sup> Other staff working directly with residents included four psychologists, two social workers, 20 occupational therapists and 13 educators organising various activities for residents.

To sum up, the numbers of ward-based and multidisciplinary clinical staff were on the whole adequate, with the exception of psychiatrists. In an institution accommodating 390 residents with serious mental disorders and disabilities, the presence of only one psychiatrist is clearly insufficient. **The CPT recommends that urgent steps be taken to fill the vacant psychiatrists' posts. Consideration should also be given to increasing the number of psychiatrists' posts.**

161. With regards to treatment, the supply of medication appeared to be adequate, with no evidence of overmedication. The delegation was informed that outside medical specialists visited the nursing home when needed and residents could be transferred to psychiatric hospitals for treatment. However, medical records lacked detail. Further, there were no individualised written treatment plans for residents.

Efforts were being made to offer a wide range of psycho-social rehabilitative activities to residents. There was an occupational therapy block on the main site with workshops (shoe making, spinning, sewing) and a facility for sports activities. Day trips and cultural events for residents were also organised from time to time. Further, there was a TV room on each ward and a small library on the main site.

**The CPT recommends that an individual treatment plan be drawn up for each resident, including the details of the treatment (e.g. medication, psychological counselling, psycho-social intervention and the goals of treatment).**

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<sup>102</sup> One for 10 years, the other for 9 months.

<sup>103</sup> One dental nurse; one physiotherapy nurse; one ECG nurse; six escort auxiliary nurses; four bathing orderlies; three canteen (feeding) orderlies.

162. As regards outdoor exercise, both the main and satellite sites had spacious gardens, with shelters and seating. The delegation was informed that residents, health permitting, were allowed to access the yard every day. At the time of the visit, there were some 30-40 residents in these gardens on the main and the satellite sites, supervised by orderlies.

## 5. Means of restraint

163. There was no resort to isolation at the institution. Further, the delegation did not receive allegations of excessive use of physical restraint (soft fixation or use of a straightjacket). However, there was no dedicated register for recording the use of means of restraint, such instances being noted only in the nurses' log book.

**The CPT recommends that every instance of physical and/or chemical restraint at Vardenis Nursing Home be recorded in a special register established for that purpose (in addition to the nurses' log book). Further, the Committee recommends that a comprehensive and clearly defined policy on the use of means of restraint in social care homes be introduced, following the example of the recently adopted guidelines of the Ministry of Health on the use of means of restraint in psychiatric establishments (see paragraph 144).**

## 6. Safeguards

164. The delegation was informed that placement at Vardenis Nursing Home is decided by the Ministry of Labour and Social Affairs upon application by the resident or his/her legal guardian. **The CPT would like to know whether residents may be admitted to Vardenis Nursing Home under the provisions of the Law on Psychiatric Assistance on involuntary placement.**

From the information gathered during the visit, it transpired that most of the residents had not made an application or given their written consent to placement. Only about one third of the residents had been declared legally incompetent and placed upon the application of their legal guardian.<sup>104</sup> Residents were effectively deprived of their liberty for an indefinite period. If a resident attempted to leave, he/she would be prevented from doing so by staff, and if a resident did succeed in leaving, he/she would be tracked down by the police and returned to the establishment. During the visit, many patients with whom the delegation spoke declared that they were being held in the institution against their will and wished to be discharged.

In the CPT's view, placement decisions following an application by a guardian or family member should always be surrounded by appropriate safeguards. In particular, the procedure by which such placement is decided should offer guarantees of independence and impartiality as well as being based on objective medical, psycho-social and educational expertise. Further, persons involuntarily placed in an institution must have the right to bring proceedings by which the lawfulness of their placement is speedily decided by a court; this is a requirement under the European Convention of Human Rights (Article 5, paragraph 4). It is also crucial that the need for placement of residents be reviewed at regular intervals and that this review afford the same guarantees as those surrounding the placement procedure.

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<sup>104</sup> The cases of the other residents were still to be examined by a court with regard to their legal capacity.

The CPT recommends that the Armenian authorities ensure that the procedure for placement of persons with psychiatric disorders/learning disabilities in social care institutions complies with the above requirements. Further, the Committee wishes to receive confirmation that all persons placed in such an institution against their will, whether or not they have been appointed a legal guardian, enjoy an effective right to apply to a court for a ruling on the legality of their placement and enjoy appropriate legal safeguards in this regard (i.e. right to a lawyer, possibility of being heard by the judge, etc.).

The Committee would also like to receive information on the procedure for consent to treatment in respect of persons with psychiatric disorders/learning disabilities admitted on an involuntary basis to social care homes<sup>105</sup> as well as on the system in place to review at regular intervals the need for continuing the placement.

165. The CPT is concerned that, following the placement of residents deprived of their legal capacity, the institution became automatically the legal guardian of such residents.<sup>106</sup> Such a situation may easily lead to a conflict of interests, considering that part of the role of a guardian is to defend the rights of the incapacitated person for whom he or she is responsible vis-à-vis the host institution (for example, as regards consent to medical treatment or to the application of means of restraint). **The CPT recommends that the Armenian authorities strive to find alternative solutions which avoid such a conflict of interests and guarantee the effective independence and impartiality of legal guardians.**

166. There were no specific arrangements for providing residents and their families with information concerning the stay at the nursing home. The CPT considers that an easy-to-understand brochure, setting out the establishment's routine, the rules for admission and discharge, residents' rights and the possibilities to lodge formal complaints on a confidential basis with clearly designated outside bodies, should be issued to the residents and their families/guardians. **The CPT recommends that such a brochure be drawn up and systematically distributed to residents and their families.**

167. Concerning contact with the outside world, residents could be visited by their families who could stay overnight in rooms set aside for this purpose. Further, some residents were taken out by their families for week-ends, holidays or longer periods. There were no public telephones in the establishment; however, the delegation was told that residents could phone from the medical unit, upon prior authorisation. **The CPT urges the Armenian authorities to facilitate residents' access to a telephone.**

168. It appeared during the 2010 visit that there was no proper system of complaints available to residents at Vardenis Nursing Home. As regards external supervision, the delegation was informed that the Human Rights Defender and NGOs visited the establishment; that said, these visits were apparently sporadic. **The recommendations made in paragraphs 153 and 154 apply equally here.**

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<sup>105</sup> See, in this connection, the comments and recommendations made in paragraph 149.

<sup>106</sup> See Section 37 (IV) and Section 41 (II) of the Civil Code.

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169. Finally, the CPT wishes to stress that the implementation of the above recommendations relevant to psychiatric establishments and social care homes should be assisted by the adoption of a comprehensive national plan for mental health, including a strategy for addressing the shortfalls in all psychiatric and social care institutions in the country and for de-institutionalisation/avoiding institutional care. **The Committee invites the Armenian authorities to develop such a national plan.**



## **APPENDIX I**

### **LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION**

#### **Co-operation encountered**

##### recommendations

- the Armenian authorities to take effective steps, on the basis of detailed action plans, to improve the situation in the light of the Committee's recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention (paragraph 6).

##### requests for information

- up-to-date information on action taken to involve representatives of civil society in the work of the National Preventive Mechanism, in particular through the establishment of a Council for the Prevention of Torture (paragraph 8).

#### **Police establishments**

##### **Preliminary remarks**

##### recommendations

- the Armenian authorities to take steps to ensure that the protocol of detention is drawn up without delay following apprehension. Further, measures should be taken to ensure that protocols of detention refer to the time of apprehension and of admission to a police establishment (in addition to the time of the commencement of drawing up the protocol of detention) (paragraph 9);
- the Armenian authorities to ensure that persons remanded in custody are promptly transferred to a prison establishment (paragraph 10);
- the Armenian authorities to deliver to all police officers, including through ongoing training, the clear message that those having abused their position in order to obtain money from persons deprived of their liberty or their relatives will be the subject of criminal proceedings. More generally, reference is made in this respect to the recommendations made by the Council of Europe's Group of States against Corruption (GRECO) (paragraph 11).

##### comments

- any police questioning of persons remanded in custody which may be necessary after their transfer to a prison establishment should as far as possible be carried out in that establishment (paragraph 10).

## **Torture and other forms of ill-treatment**

### recommendations

- the Armenian authorities to deliver a firm message of “zero tolerance” of ill-treatment, at regular intervals, to all police officers, through the adoption of a statement from the highest level. As part of this message, it should be made clear that any police officer committing, aiding and abetting or tolerating ill-treatment, in any form, will be severely punished. Further, police staff should be reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for striking them. At the same time, action to treat persons in custody humanely should be positively recognised (paragraph 14);
- the use of electric stun devices to be reviewed, in the light of the remarks in paragraph 16. The relevant laws and regulations should be amended accordingly (paragraph 16);
- the considerations set out in paragraph 18 as regards the emphasis on a physical evidence-based approach during professional training to be fully taken into account when implementing future police reform projects (paragraph 18);
- measures to be taken to review training, procedures and arrangements for police interviews, in the light of the remarks in paragraph 18 (paragraph 18).

### comments

- the CPT trusts that the Council of Europe expert opinion on the envisaged new complaints mechanism will be taken into account when setting it up and that determined action, including through appropriate funding, will be taken to ensure that the mechanism is, and is seen to be, independent and impartial. Given that police misconduct may entail elements of both disciplinary and criminal offences, close co-operation with bodies in charge of criminal investigations should be encouraged (paragraph 19).

### requests for information

- a copy of the relevant legal provisions or instructions on newly developed criteria for the use of force and “special means” (paragraph 15);
- the following information for the years 2009 and 2010:
  - (i) the number of recorded instances of recourse to “special means”, in particular electric stun devices, by police officers;
  - (ii) the number of injuries and deaths reported to the competent authorities following recourse to such means (paragraph 16);
- detailed information on the new uniforms for members of special police forces, with identification numbers, including on the special forces to which these uniforms will be issued (paragraph 17).

## **Investigations into cases possibly involving ill-treatment by the police**

### recommendations

- the investigation into the case of “A” to be re-opened (paragraph 23);
- increased emphasis to be placed on the structural independence of the Special Investigation Service (SIS) and the existence of transparent procedures in order to enhance public confidence (paragraph 26);
- direct, confidential, access to the SIS for persons alleging ill-treatment to be ensured (paragraph 26);
- judges to be reminded, by the highest judicial authorities and/or, if necessary, through the adoption of relevant legal provisions, that they should take action whenever a person brought before them alleges that he or she has been subjected to violence by the police. Even in the absence of an express allegation of ill-treatment, the judge should ensure that a forensic medical examination is requested whenever there are other grounds (e.g. visible injuries, a person's general appearance or demeanour) to believe that ill-treatment may have occurred (paragraph 27).

### requests for information

- detailed information on the outcome of the case of Vahan Khalafyan (paragraph 22);
- the remarks of the Armenian authorities on the results of the investigations into the events of 1 March 2008 (paragraph 24);
- the following information in respect of 2009 and 2010:
  - the number of complaints of ill-treatment by police officers;
  - the number of SIS investigations instituted as a result of these complaints;
  - an account of any criminal sanctions imposed (paragraph 26);
- up-to-date information on progress towards the development of a centralised statistical database of complaints of ill-treatment of persons detained by law enforcement agencies (paragraph 26).

## **Procedural safeguards against police ill-treatment**

### recommendations

- all detained persons to effectively benefit from the right of notification of custody as from the very outset of de facto deprivation of liberty. Further, any possibility to delay the exercise of the right of notification of custody should be clearly circumscribed in law and made subject to appropriate safeguards (e.g. any delay to be recorded in writing with the reasons therefor, and to require the approval of a senior police officer unconnected with the case at hand or a prosecutor) and strictly limited in time (paragraph 29);
- the Armenian authorities to ensure that the right of access to a lawyer for persons deprived of their liberty applies effectively as from the very outset of their de facto deprivation of liberty by the police. If necessary, the relevant legal provisions should be amended (paragraph 30);
- witnesses summoned to a police establishment to be systematically made aware of the possibility to be assisted by a lawyer of their choice during any police interviews (paragraph 32);
- the Armenian authorities to take measures, including of a legislative nature, to make it clear that:
  - the right of access to a doctor applies as from the moment of de facto deprivation of liberty;
  - medical examinations of detained persons should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers;
  - the results of every examination, as well as any relevant statements by the detained person and the doctor's conclusions, should be formally recorded by the doctor and made available to the detainee and, upon request, his or her lawyer;
  - whenever injuries are recorded by a doctor which are consistent with possible ill-treatment, the record should be systematically brought to the attention of the relevant prosecutor(paragraph 34);
- whenever a detained person presents injuries and makes allegations of ill-treatment, he or she should be promptly seen by an independent doctor with recognised forensic training, who should draw conclusions as to the degree of consistency between the allegations made and the objective medical findings. The detained person should be entitled to such an examination without prior authorisation from an investigator, prosecutor or judge (paragraph 34);
- measures to be taken to ensure that the confidentiality of medical documentation is strictly observed. Naturally, health-care staff examining persons detained by the police may inform police officers on a need-to-know basis about the state of health of a detained person, including medication being taken and particular health risks (paragraph 34);

- verbal information on rights to be given systematically to all persons apprehended by the police, at the very outset of their de facto deprivation of liberty. As regards the information form on rights, it should be given systematically to all detained persons as soon as they are brought into a police establishment, and should be available in an appropriate range of languages (paragraph 36);
- the Armenian authorities to ensure that custody registers are properly maintained, accurately record the times of actual apprehension, admission, placement in a cell, release or transfer, and reflect all other aspects of custody (precise location where a detained person is being held; visits by a lawyer, relative, doctor or consular officer; taking out of cell for questioning; any incidents related to a detained person, etc.) (paragraph 37);
- the competent prosecutors and senior police officials to exercise effective supervision of the accuracy of custody registers in police establishments (paragraph 37);
- the mandate of the Police Public Monitoring Group to be extended so as to include any police premises where persons may be deprived of their liberty, even for a short period (paragraph 38).

#### comments

- the Committee considers it important that health-care staff working in police detention facilities be aligned as closely as possible with the mainstream of health-care provision in the community at large (paragraph 35).

#### requests for information

- clarification as to the applicable legal provisions concerning notification of custody (paragraph 29);
- up-to-date information on steps taken to improve the implementation of the Law on Advocacy (paragraph 31).

### **Conditions of detention**

#### recommendations

- the shortcomings referred to in paragraph 39 as regards police detention facilities to be remedied (paragraph 39);
- all persons held at the Detention Facility of Yerevan City Police Department for more than 24 hours to be given the possibility to take at least one hour of outdoor exercise every day (paragraph 39);
- the Armenian authorities to take urgent steps to ensure that the period of detention in holding cells does not exceed three hours (paragraph 40);
- immediate measures to be taken to ensure that corridors or offices are not used as a substitute for proper detention facilities (paragraph 40).

## **Military establishments**

### **Preliminary remarks**

#### recommendations

- the Armenian authorities to ensure that servicemen remanded in custody are promptly transferred to a prison establishment (paragraph 42).

#### comments

- any further questioning of servicemen by the military police which may be necessary after their transfer to a prison establishment should as far as possible be carried out in that establishment (paragraph 42).

#### requests for information

- up-to-date information on the planned changes in respect of military discipline and in particular on the measure of transfer to a disciplinary company. More specifically, the Committee wishes to know whether servicemen subjected to such a transfer would be locked up in the accommodation areas at specific times (paragraph 43).

## **Ill-treatment**

#### requests for information

- the following information in respect of 2009 and 2010:
  - the number of complaints of ill-treatment made against military police staff;
  - the number of criminal and disciplinary proceedings instituted as a result of such complaints;
  - an account of any criminal and disciplinary sanctions imposed (paragraph 44).

## **Safeguards**

#### recommendations

- all detained servicemen to effectively benefit from the right of notification of custody as from the very outset of de facto deprivation of liberty. Further, any possibility to delay the exercise of the right of notification of custody should be clearly circumscribed in law and made subject to appropriate safeguards (e.g. any delay to be recorded in writing with the reasons therefor, and to require the approval of a senior military police officer unconnected with the case at hand or a military prosecutor) and strictly limited in time (paragraph 45);

- the Armenian authorities to ensure that the right of access to a lawyer for servicemen deprived of their liberty applies effectively as from the very outset of their de facto deprivation of liberty (paragraph 45).

#### comments

- the CPT trusts that the Armenian authorities will take legal and practical steps to ensure that servicemen facing disciplinary proceedings benefit from all appropriate safeguards, in the light of the remarks in paragraph 46 and taking into consideration Recommendation CM/Rec (2010) 4 of the Council of Europe's Committee of Ministers on human rights of members of the armed forces (paragraph 46);
- the Armenian authorities are invited to further develop the system of visits to military establishments by independent monitoring bodies (paragraph 47).

### **Conditions of detention**

#### recommendations

- measures to be taken to ensure that placement of servicemen in a disciplinary cell does not include a total prohibition on family contacts. Further, any restrictions on family contacts as a form of punishment should be imposed only where the offence relates to such contacts (paragraph 54);
- the official occupancy levels of cells to be reduced at the disciplinary isolators of Yerevan Military Police Division and Sevan Military Police Division in Martuni, the objective being to offer at least 4 m<sup>2</sup> of living space per detainee in multi-occupancy cells (paragraph 55);
- the cells measuring 4 m<sup>2</sup> at Sevan Military Police Division in Martuni to be either enlarged or taken out of service (paragraph 55);
- all detainees undergoing disciplinary confinement to be provided with mattresses, blankets and pillows at night (paragraph 55);
- the state of repair and cleanliness of the sanitary facilities at the Disciplinary Isolator of Yerevan Military Police Division to be improved (paragraph 55);
- military staff remanded in custody or serving sentences to be provided with some form of out-of-cell activity (e.g. work, sport) (paragraph 55).

#### comments

- in the CPT's view, there is no justification for attaching the beds in disciplinary cells to the wall during the day. Further, it should be possible for servicemen held in disciplinary confinement to lie down on the bed during the day, if this is required by their medical condition (paragraph 53).

## **National Security Service establishments**

### **Ill-treatment**

#### recommendations

- all National Security Service officials to be given the clear message that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions (paragraph 56);
- the Armenian authorities to take measures to improve the professional training of National Security Service officials, in the light of the remarks in paragraph 57 (paragraph 57).

#### comments

- the recommendations made in Section II.A.4 (procedural safeguards against police ill-treatment) apply equally to persons deprived of their liberty by the National Security Service (paragraph 57).

### **Conditions of detention**

#### recommendations

- the shortcomings referred to in paragraph 59 as regards the exercise yard of the National Security Service detention facility in Yerevan to be remedied (paragraph 59).

## **Prison Service establishments**

### **Preliminary remarks**

#### recommendations

- the Armenian authorities to redouble their efforts to combat prison overcrowding and, in so doing, to be guided by all the relevant recommendations of the Committee of Ministers of the Council of Europe (paragraph 61);
- the Armenian authorities to strive to develop programmes of activities for both sentenced and remand prisoners. The aim should be to ensure that both categories of prisoner are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activities of a varied nature (paragraph 62);
- the Armenian authorities to step up their efforts to combat corruption in the prison system. Further, all prison staff and public officials associated with the prison system should be given the clear message that obtaining or demanding undue advantages from prisoners or their relatives is not acceptable; this message should be reiterated in an appropriate form at suitable intervals (paragraph 63).



comments

- the CPT trusts that the prison-building programme of the Armenian authorities will be part of an overall strategy for creating a humane prison system which, in addition to improving the physical infrastructure, addresses the issues of prison management, the allocation of prisoners, as far as possible, to establishments close to their homes and opportunities for the reintegration of prisoners into free society (paragraph 61).

**Ill-treatment**

recommendations

- staff working at Nubarashen Prison to be reminded periodically that the ill-treatment of inmates is unacceptable and that resort to such ill-treatment will be severely punished (paragraph 64);
- the attention of the management of Nubarashen Prison and of supervising prosecutors to be drawn to the need for exercising extra vigilance to ensure that all instances of resort to “special means” against prisoners are adequately recorded and that “special means” are never applied as a form of punishment. Further, it should be recalled that a prisoner against whom “special means” have been used should have the right to be immediately examined and, if necessary, treated by health-care staff. The results of the examination (including any relevant statements by the prisoner and the health-care staff’s conclusions) should be formally recorded and made available to the prisoner, who in addition should be entitled to undergo a forensic medical examination (paragraph 65);
- the Armenian authorities to adopt a national strategy for combating inter-prisoner intimidation, including steps to put an end to the reliance on the informal prison hierarchy to maintain good order in prison establishments (paragraph 68);
- the management and staff of Kosh and Nubarashen Prisons to make use of all the means at their disposal to counter the negative impact of the informal prison hierarchy and prevent inter-prisoner intimidation. The prison management must be vigilant as to possible collusion between staff and prisoner “leaders”, and prison staff must be especially alert to signs of trouble, pay particular attention to the treatment of vulnerable inmates by other prisoners, and be both resolved and properly trained to intervene when necessary (paragraph 68).

**Prisoners sentenced to life imprisonment**

recommendations

- the shortcomings observed in certain of the cells for life-sentenced prisoners at Nubarashen Prison to be remedied (paragraph 70);
- the Armenian authorities to develop a programme of activities for prisoners sentenced to life imprisonment (including work, education, association and sports, as well as targeted rehabilitation programmes) (paragraphs 70 and 71);

- a solution to be found without delay as regards the inadequate size of the cells for life-sentenced prisoners at Yerevan-Kentron Prison: either the cells are enlarged or, preferably, the three prisoners concerned are accommodated elsewhere (paragraph 71);
- as regards the two life-sentenced prisoners who had been held in conditions of solitary confinement for years at Yerevan-Kentron Prison, immediate steps must be taken to allow them contact with other inmates (paragraph 71);
- the Armenian authorities to review the security arrangements for life-sentenced prisoners, in the light of the remarks in paragraph 72. Steps should be taken without delay to ensure that at Nubarashen Prison, the handcuffing of life-sentenced prisoners when outside their cells is an exceptional measure and is always based on an individualised risk assessment (paragraph 72);
- the Armenian authorities to amend the legislation with a view to bringing the visit entitlement of prisoners serving life sentences or sentences for particularly grave crimes on a par with that of other inmates (paragraphs 73 and 124);
- visits to take place, as a general rule, in open conditions (e.g. around a table) and visits through a partition to be the exception (paragraph 73);
- the Armenian authorities to review the legislation and practice as regards the systematic segregation of life-sentenced prisoners, in the light of the remarks in paragraph 74 (paragraph 74).

#### requests for information

- confirmation that TV sets have been installed in the cells of the two life-sentenced prisoners who had been held in solitary confinement for years at Yerevan-Kentron Prison (paragraph 71).

#### **Foreign prisoners**

##### recommendations

- urgent steps to be taken at Nubarashen Prison and in the closed section of Vardashen Prison to reduce overcrowding in the cells for foreign prisoners, the aim being to comply with the national standard of at least 4 m<sup>2</sup> of living space per prisoner (paragraph 76);
- action to be taken to develop suitable programmes of activities for foreign prisoners (including work, education, sports, cultural and leisure activities) in Nubarashen and Vardashen Prisons (paragraph 77);
- reading material in appropriate languages and language classes to be provided for foreign nationals in prison and arrangements to be made to allow access to suitable areas for religious activities in both Nubarashen and Vardashen Prisons (paragraph 77);

- appropriate steps to be taken in prison establishments frequently holding foreign nationals to ensure more positive relations between prison staff and foreign prisoners, in the light of the remarks in paragraph 78. Greater communication between staff and foreign prisoners should be encouraged (paragraph 78);
- the Armenian authorities to adopt a flexible approach as regards possibilities to convert visit entitlements into phone calls, bearing in mind the special needs of foreign prisoners (paragraph 79).

#### comments

- the Armenian authorities are invited to ensure that special dietary needs of foreign nationals are taken into account in the preparation of meals in Nubarashen and Vardashen Prisons (paragraph 76).

### **Conditions of detention of the general prison population**

#### recommendations

- the Armenian authorities to set the following as short-term objectives at Nubarashen Prison:
    - to ensure that every prisoner has his own bed;
    - to ensure an uninterrupted supply of electricity;
    - to improve the water supply;
    - to refurbish the shower facilities and ensure access to a shower at least once a week;
    - to provide all inmates with at least one hour of outdoor exercise every day, including at week-ends;
- and the following as medium-term objectives:
- to decrease the overcrowding, the objective being to offer a minimum of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells;
  - to renovate the prisoner accommodation and to improve ventilation and hygiene in the cells;
  - to offer organised out-of-cell activities (work, recreation/association, education, sport) to all categories of prisoner (paragraph 83);
- the Armenian authorities to refurbish the toilet and shower facilities at Kosh Prison and to ensure that the quality and quantity of food provided to prisoners at this establishment comply with national nutritional standards (paragraph 90);

- steps to be taken at Kosh Prison to transform the large-capacity dormitories into smaller living units offering more privacy and better possibilities for control by staff and to reduce the occupancy levels in the dormitories in order to comply with the legal requirement of at least 4 m<sup>2</sup> of living space per prisoner (paragraph 90);
- the Armenian authorities to strive to develop the programme of activities offered to prisoners at Kosh Prison, in particular as regards education and vocational training, and to increase work opportunities for prisoners. Further, leisure and organised sports activities should be further developed (TV, provision of books/newspapers, organisation of sports events) (paragraph 91);
- the Armenian authorities to take action without delay at Kosh Prison to provide “homosexual” prisoners with material conditions and a programme of activities on a par with those offered to other inmates. Further, measures should be taken to ensure that “homosexual” prisoners have at least one day of rest from work a week and sufficient time for education and other activities (paragraph 92);
- the Armenian authorities to strive to reduce the cell occupancy rates at Vardashen Prison, the objective being to comply with the national standard of at least 4 m<sup>2</sup> of living space per prisoner (paragraph 94);
- action to be taken at Vardashen Prison to develop suitable programmes of activities for the different categories of inmate (including work, education, sports, cultural and leisure activities) (paragraph 96).

#### comments

- the Armenian authorities are invited to increase, in the medium term, the frequency of showers for inmates at Nubarashen Prison, in the light of Rule 19.4 of the European Prison Rules (paragraph 83);
- the Armenian authorities are invited to increase the frequency of showers for inmates at Kosh and Vardashen Prisons, in the light of Rule 19.4 of the European Prison Rules (paragraphs 90 and 94);
- the Committee would like to stress that it is the prison administration’s responsibility to ensure that prisoners are held in decent conditions. If certain prisoners are given free reign to exploit their wealth, this may quickly erode the authority of the prison management within the establishment concerned (paragraph 90);
- the Armenian authorities are invited to set up individualised programmes of activities, involving both staff providing professional psychological support and custodial staff, for any inmates at Vardashen Prison who are segregated for a prolonged period for their own safety (paragraph 97).

#### requests for information

- more details of the plans to close down Nubarashen Prison and to construct a new prison in Yerevan (paragraph 84).

## **Health care**

### recommendations

- the Armenian authorities to take appropriate action to reinforce the health-care staff teams at Nubarashen, Kosh and Vardashen Prisons with feldshers and/or nurses, and in particular:
  - to employ at least two feldshers/nurses at Vardashen Prison;
  - to fill the vacant posts of feldshers at Kosh Prison;
  - to ensure that a person qualified to provide first aid, preferably someone with a recognised nursing qualification, is present around the clock at Kosh and Vardashen Prisons, including at week-ends  
(paragraph 102);
- steps to be taken to ensure without delay the regular attendance of a stomatologist at Kosh Prison (paragraph 102);
- the Armenian authorities to ensure that prisoners in need of hospital treatment are promptly transferred to appropriate medical facilities. If necessary, the decision-making process should be reviewed (paragraph 104);
- the Armenian authorities to ensure that prison establishments are supplied with appropriate medication (paragraph 105);
- the Armenian authorities to provide health-care staff with detailed instructions on medical examinations of prisoners. In particular:
  - (i) with respect to medical examinations on admission
    - they should never be conducted in the presence of escort police officers;
    - if a person bears injuries consistent with possible ill-treatment, the relevant prosecutor should always be immediately notified and a copy of the report on injuries forwarded to him. Detained persons and their lawyers should be entitled to receive a copy of this report at the same time;
  - (ii) with respect to all medical examinations (whether they are performed on admission or after a violent episode in prison)
    - medical examinations of prisoners should be conducted out of the hearing and – unless the health-care professional concerned expressly requests otherwise in a given case – out of the sight of non-medical prison staff;
    - they should be comprehensive, including appropriate screening for injuries;

- statements made by the prisoners concerned in the context of such examinations, the objective medical findings and medical conclusions should not be accessible to non-medical prison staff (health-care staff examining the prisoners may inform prison staff on a need-to-know basis about the state of health of an inmate, including medication being taken and particular health risks)  
(paragraph 107);
- the Armenian authorities to improve the provision of psychiatric care to prisoners, in particular by securing regular visits by psychiatrists to Kosh and Vardashen Prisons. Further, as regards prisoners “under psychiatric observation” at Nubarashen Prison, the CPT must stress again that inmates who are in a situation of vulnerability should never be accommodated under material conditions which are inferior to those prevailing on normal location. Moreover, mentally disturbed prisoners who require in-patient psychiatric treatment should be promptly transferred to appropriate hospital facilities which are adequately equipped and possess appropriately trained staff (paragraph 109);
- steps to be taken at Yerevan Prison Hospital’s psychiatric ward to:
  - reduce occupancy levels in the rooms, in particular by using the rooms that had been occupied by somatic patients;
  - refurbish the rooms in need of repair and replace missing window panes;
  - renovate the sanitary facilities;
  - install an efficient heating system;
  - assist patients to maintain good personal hygiene  
(paragraph 113);
- the treatment of patients in the Prison Hospital’s psychiatric ward to be improved, the objective being to offer a range of therapeutic and rehabilitative activities, including access to occupational therapy, group and individual psychotherapy and possibly educational activities and suitable work. This will require the setting up of appropriate facilities within the ward and the drawing-up of individual treatment plans (paragraph 114);
- the Armenian authorities to take steps at the Prison Hospital’s psychiatric ward to ensure the regular presence of specialists qualified to provide therapeutic and rehabilitative activities, such as psychologists and occupational therapists. In addition, efforts should be made to increase the number of ward-based feldshers/nurses and to fill the vacant orderly’s post (paragraph 115);
- the Armenian authorities to discontinue their current practice in respect of inmates considered to be particularly high suicide risk and to introduce appropriate suicide prevention procedures in prison, in the light of the remarks in paragraph 117 (paragraph 117);
- the Armenian authorities to review their policy for the management of prisoners on hunger strike, in the light of the remarks in paragraph 118 (paragraph 118).

comments

- the CPT trusts that the Armenian authorities will pursue their efforts to combat tuberculosis in prison (paragraph 108);
- the Armenian authorities are invited to reinforce the provision of psychological care in prison and to develop the role of prison psychologists, in particular as regards therapeutic clinical work with various categories of potentially vulnerable inmates (paragraph 111).

requests for information

- confirmation that sterilisation equipment has been provided to the health-care services of Nubarashen, Kosh and Vardashen Prisons (paragraph 103);
- remarks of the Armenian authorities on the fact that several prisoners who did not have health problems of a degree requiring placement in a medical facility were being accommodated in the medical units of the prison establishments visited (paragraph 103);
- statistical data on morbidity and mortality in prison in relation to tuberculosis (including multi-drug-resistant forms of tuberculosis) over the last four years (paragraph 108);
- within one month, copies of the psychiatric assessment reports in respect of the two life-sentenced prisoners at Yerevan-Kentron Prison referred to in paragraph 110 (paragraph 110);
- where the somatic patients who had been accommodated in the Prison Hospital's psychiatric ward were transferred (paragraph 112);
- confirmation that a register of instances of restraint has been set up at the Prison Hospital's psychiatric ward (paragraph 116).

**Other issues of relevance to the CPT's mandate**

recommendations

- the Armenian authorities to take steps to increase staffing levels and change the staff attendance system in the prison establishments visited, in the light of the remarks in paragraph 119. The action taken should also be founded on the requirement to provide all categories of prisoner with a full range of activities (as well as daily outdoor exercise) (paragraph 119);
- the Armenian authorities to review the procedure for placement in disciplinary cells in order to ensure that the prisoners concerned (i) are informed in writing of the charges against them, (ii) are given reasonable time to prepare their defence, (iii) have the right to be heard in person and to call witnesses on their own behalf and to cross-examine evidence given against them, and (iv) are provided with a copy of the decision which contains the reasons for placement and straightforward information on their rights, including the right to legal assistance and the means available to them to challenge the decision before an independent authority (paragraph 121);

- the existing legal arrangements and practice concerning the role of health-care staff in relation to disciplinary matters to be reviewed (paragraph 121);
- the shortcomings observed in Kosh Prison's disciplinary unit to be remedied (paragraph 122);
- all prisoners placed in disciplinary cells at Nubarashen Prison to be provided with at least one hour of outdoor exercise every day (paragraph 123);
- the relevant regulations to be amended to ensure that prisoners have access to reading material during disciplinary confinement (paragraph 123);
- the Armenian authorities to take measures to ensure that placement of prisoners in a disciplinary cell does not include a total prohibition on family contacts. Further, any restrictions on family contacts as a form of punishment should be imposed only where the offence relates to such contacts (paragraph 123);
- action to be taken at Kosh Prison to ensure that the management of visits remains the prison administration's prerogative (paragraph 124);
- access to the telephone to be improved at Kosh Prison (paragraph 125);
- the Armenian authorities to take effective steps to ensure that the rights of remand prisoners to receive visits and to have access to the telephone are not unduly restricted. Any prohibition on visits should be specifically substantiated by the needs of the investigation or security considerations, require the approval of a judicial authority and be applied for a specified period of time, with reasons stated. Further, any decision to prohibit or impose restrictions on a given remand prisoner's access to the telephone should be based on a substantiated risk of collusion, intimidation or another illegal activity and be for a specified period. If necessary, the appropriate legal framework should be amended (paragraph 126);
- the Armenian authorities to ensure that the right of prisoners to lodge complaints is fully effective, by guaranteeing inter alia that complainants are free from reprisals. In this context, the complaints procedures should be reviewed so as to safeguard the confidential character of prisoners' correspondence with outside complaints and inspection bodies (including the CPT) (paragraph 127).

#### comments

- the Armenian authorities are invited to increase the visit entitlements of both remand and sentenced prisoners so as to ensure that they have the right to receive more frequent visits (e.g. one short visit per week, with the possibility of accumulating visit entitlements for periods during which no visits have been received) (paragraph 124);
- the CPT would like to stress that any action by prison staff to vet or read prisoners' letters addressed to the Committee would be considered as a violation of the principle of co-operation set out in Article 3 of the Convention (paragraph 127);
- the CPT trusts that the Armenian authorities will continue to promote the independent monitoring of prison establishments (paragraph 128).



requests for information

- clarification as to the possibility to extend disciplinary confinement to up to 20 days when a new breach of discipline is committed during disciplinary confinement (paragraph 120);
- remarks of the Armenian authorities on cases of transfer of prisoners held at Vardashen to disciplinary cells at Erebuni Prison, whereas Vardashen Prison's admission cells were not occupied (paragraph 122);
- detailed information on the refurbishment of Nubarashen Prison's disciplinary cells (paragraph 122).

**Psychiatric establishments**

**Patients' living conditions**

recommendations

- the Armenian authorities to:
  - offer patients a more congenial and personalised environment at the Secure Unit of Nubarashen Republican Psychiatric Hospital and provide them with personal lockable space for their belongings;
  - establish proper day rooms sufficient for the number of patients being held (paragraph 134);
- occupancy levels in patients' rooms at the Nork Centre of Mental Health in Yerevan, in particular on Ward 3, to be reduced, and no patients to be accommodated in the corridors (paragraph 135);
- the Armenian authorities to:
  - offer patients a more congenial and personalised environment at the Nork Centre of Mental Health and provide them with personal lockable space for their belongings;
  - establish proper day rooms sufficient for the number of patients being held (paragraph 135).

comments

- the CPT trusts that the refurbishment of the ground floor of the Secure Unit of Nubarashen Psychiatric Hospital (former Ward 5) will allow the re-organisation of the patient accommodation areas with a view to reducing occupancy levels in the dormitories and creating a clearly separate area of the ward for women (paragraph 134);

- in view of their vulnerability and special needs, juveniles should be provided with adequately protected accommodation at the Secure Unit of Nubarashen Psychiatric Hospital and Yerevan Nork Centre of Mental Health, in a clearly separate area of the ward concerned. Naturally, this should not prevent juveniles from participating in rehabilitative psycho-social and recreational activities with adults, under appropriate supervision by staff (paragraph 136).

## **Staff**

### recommendations

- the Armenian authorities to take steps at the Secure Unit of Nubarashen Psychiatric Hospital to:
  - increase the number of psychiatrists, nurses and orderlies on Ward 7;
  - provide nursing staff with specialised (initial and ongoing) training in psychiatry, including relating to patients' rights;
  - employ specialists qualified to provide therapeutic and rehabilitative psycho-social activities (e.g. psychologists, occupational therapists, psychotherapists and social workers) (paragraph 137);
- the Armenian authorities to take steps at the Nork Centre of Mental Health to:
  - increase the nursing staff/patient ratio on the wards;
  - reinforce the team of specialists qualified to provide therapeutic and rehabilitative psycho-social activities (paragraph 138).

## **Treatment**

### recommendations

- the Armenian authorities to strive to develop the possibilities for therapeutic and psycho-social rehabilitation activities at the Secure Unit of Nubarashen Psychiatric Hospital. At the Nork Centre of Mental Health, efforts should be made to expand the range of therapeutic options and involve more patients in rehabilitative psycho-social activities, in order to prepare them for independent life and a return to their families. Any juvenile patients accommodated in the establishments should be offered specific programmes relevant to adolescent psychiatric patients, including education (paragraph 141);
- at both establishments visited, occupational therapy to be an integral part of the rehabilitation programme for psychiatric patients, providing motivation, development of learning and relationship skills, acquisition of specific competences and an improved self-image (paragraph 141);

- steps to be taken at both establishments visited to draw up an individual treatment plan for each psychiatric patient, composed of both pharmacotherapy and a wide range of rehabilitative and therapeutic activities, including the goals of the treatment, the therapeutic means used and the staff members responsible (paragraph 141);
- steps to be taken to ensure that all patients at the Secure Unit of Nubarashen Psychiatric Hospital and the Nork Centre of Mental Health whose health so permits have access to one hour of outdoor exercise per day. Further, immediate steps should be taken to improve the conditions under which patients take outdoor exercise at Nubarashen Psychiatric Hospital (paragraph 142).

#### comments

- the Armenian authorities are invited to explore possibilities for granting leave to patients at the Nork Centre of Mental Health, to assist with rehabilitation and to counter the adverse effects of hospitalisation (paragraph 143).

### **Means of restraint**

#### recommendations

- the Armenian authorities to ensure that the application of mechanical means of restraint to a patient does not take place in the sight of other patients, unless the patient concerned explicitly requests otherwise or is known to have a preference for company. Means of restraint should be applied to a patient in a room specially designed for that purpose and staff should not be assisted by other patients when applying means of restraint. Once the means of restraint have been removed, a debriefing of the patient should take place (paragraph 145).

#### comments

- the CPT trusts that the Armenian authorities will ensure that all instances of restraint are systematically recorded in the new registers established for that purpose (paragraph 144).

### **Safeguards**

#### recommendations

- “forensic” patients to be systematically informed of the decision of the psychiatric commission and the court decision (and be given a copy of these documents), as well as of the legal remedies available to challenge them. Further, legal assistance to such patients should be ensured (paragraph 146);

- steps to be taken to:
  - clearly spell out in the relevant legislation the criteria justifying involuntary hospitalisation;
  - ensure a periodic review of involuntary hospitalisation decisions, which should take place at least once every six months (paragraph 147);
- steps to be taken to ensure that the provisions of the Law on Psychiatric Assistance (LPA) on involuntary civil hospitalisation are fully implemented in practice. This will involve training of all structures and persons concerned (in particular, health-care staff, hospital management and judges). To monitor the implementation of the new legislation, statistics on involuntary admissions (which could be broken down by diagnosis, gender, hospital, length of stay, etc.) should be compiled at national and establishment level (paragraph 148);
- the Armenian authorities to take steps to reflect, in both law and practice, the principle of a patient's consent to treatment and the requirements set out in paragraph 149 as regards treatment without consent (paragraph 149);
- an introductory brochure setting forth the hospital routine and patients' rights (including information on avenues for complaint) to be devised and issued to each patient on admission, as well as to their families/guardians. Any patients unable to understand this brochure should receive appropriate assistance (paragraph 151);
- the Armenian authorities to facilitate psychiatric patients' access to a telephone (paragraph 152);
- the Armenian authorities to introduce a formal system for lodging complaints in a confidential manner (including a register of complaints and a possibility to appeal). In this context, the introduction of complaints boxes (with restricted staff access) should be considered (paragraph 153);
- the Armenian authorities to develop a system of regular visits by an independent body to psychiatric hospitals. This body should be authorised, in particular, to talk privately with patients, examine all issues related to their living conditions and treatment, receive directly any complaints which they might have and make any necessary recommendations (paragraph 154).

#### requests for information

- further information on the practical provision of free legal assistance to psychiatric patients (paragraph 150);
- whether free legal assistance can be provided to "forensic patients" (paragraph 150).

## **Social care homes**

### **Ill-treatment**

#### recommendations

- the procedures for the selection of ward-based staff and both their initial and ongoing training and supervision to be reviewed at Vardenis Nursing Home, in the light of the remarks in paragraph 156 (paragraph 156);
- the management of Vardenis Nursing Home to remain vigilant and to make it clear to staff that all forms of ill-treatment of residents, including verbal abuse, are unacceptable and will be severely punished (paragraph 156).

### **Residents' living conditions**

#### recommendations

- steps to be taken at Vardenis Nursing Home to reduce the occupancy levels in residents' dormitories and to provide more stratified accommodation to residents with differing mental health needs (paragraph 157);
- efforts to be made at Vardenis Nursing Home to offer residents a more congenial living environment, including by providing them with personal lockable space for their belongings (paragraph 157).

#### requests for information

- further information about the creation of a new 40-bed ward at Vardenis Nursing Home (paragraph 157);
- further information on the food provision at Vardenis Nursing Home (overall budget, daily nutritional values, standard menus, etc.) (paragraph 159).

### **Staff and care of residents**

#### recommendations

- urgent steps to be taken to fill the vacant psychiatrists' posts at Vardenis Nursing Home. Consideration should also be given to increasing the number of psychiatrists' posts (paragraph 160);
- an individual treatment plan to be drawn up for each resident of Vardenis Nursing Home, including the details of the treatment (e.g. medication, psychological counselling, psycho-social intervention and the goals of treatment) (paragraph 161).

## **Means of restraint**

### recommendations

- every instance of physical and/or chemical restraint at Vardenis Nursing Home to be recorded in a special register established for that purpose (in addition to the nurses' log book) (paragraph 163);
- a comprehensive and clearly defined policy on the use of means of restraint in social care homes to be introduced, following the example of the recently adopted guidelines of the Ministry of Health on the use of means of restraint in psychiatric establishments (paragraph 163).

## **Safeguards**

### recommendations

- the Armenian authorities to ensure that the procedure for placement of persons with psychiatric disorders/learning disabilities in social care institutions complies with the requirements described in paragraph 164 (paragraph 164);
- the Armenian authorities to strive to find alternative solutions so that a social care institution does not become automatically the legal guardian of residents deprived of their legal capacity, thereby avoiding a conflict of interests and guaranteeing the effective independence and impartiality of legal guardians (paragraph 165);
- an easy-to-understand brochure to be drawn up and systematically distributed to residents and their families at Vardenis Nursing Home (paragraph 166);
- the Armenian authorities to facilitate residents' access to a telephone at Vardenis Nursing Home (paragraph 167);
- the Armenian authorities to introduce a formal system for lodging complaints in a confidential manner (including a register of complaints and a possibility to appeal). In this context, the introduction of complaints boxes (with restricted staff access) should be considered (paragraph 168);
- the Armenian authorities to develop a system of regular visits by an independent body to social care homes. This body should be authorised, in particular, to talk privately with residents, examine all issues related to their living conditions and treatment, receive directly any complaints which they might have and make any necessary recommendations (paragraph 168).

comments

- the Armenian authorities are invited to develop a comprehensive national plan for mental health, including a strategy for addressing the shortfalls in all psychiatric and social care institutions in the country and for de-institutionalisation/avoiding institutional care (paragraph 169).

requests for information

- whether residents may be admitted to Vardenis Nursing Home under the provisions of the Law on Psychiatric Assistance on involuntary placement (paragraph 164);
- confirmation that all persons placed in social care institutions against their will, whether or not they have been appointed a legal guardian, enjoy an effective right to apply to a court for a ruling on the legality of their placement and enjoy appropriate legal safeguards in this regard (i.e. right to a lawyer, possibility of being heard by the judge, etc.) (paragraph 164);
- information on the procedure for consent to treatment in respect of persons with psychiatric disorders/learning disabilities admitted on an involuntary basis to social care homes as well as on the system in place to review at regular intervals the need for continuing the placement (paragraph 164).





**APPENDIX II**

**LIST OF THE GOVERNMENTAL AND OTHER AUTHORITIES AND INTERNATIONAL AND NON-GOVERNMENTAL ORGANISATIONS WITH WHICH THE DELEGATION HELD CONSULTATIONS**

**A. GOVERNMENTAL AUTHORITIES**

**Ministry of Justice**

Mr Gevork DANIELYAN	Minister of Justice
Mr Nikolay ARUSTAMYAN	Deputy Minister of Justice
Mr Vahe DEMISTSHYAN	Head of International Legal Relations Department
Mr Artur HOVHANNISYAN	Head of Euro-integration Department
Mr Ashot GIZIRYAN	Head of the Criminal Executive Department (Prison Service)
Mr Rafayel HOVHANNISYAN	Deputy Head of Criminal Executive Department
Mr Ara HOVHANNISYAN	Deputy Head of Medical Division, Criminal Executive Department

**Police Service**

Mr Hunan POGHOSYAN	First Deputy Head of the Police Service
Mr Artur OSIKYAN	Deputy Head of the Police Service
Mr Eduard GHAZARYAN	Chief of Police Staff
Mr Gagik AVETISYAN	Head of Anti-Organised Crime Department
Mr Aghasi KIRAKOSYAN	Head of Public Order Department
Mr Artyom BABAJANYAN	Head of Internal Security Department
Mr Sayat SHIRINYAN	Head of Public Relations Department
Mr Hovhannes KOCHARYAN	Head of Legal Assistance Department

**Ministry of Defence**

Mr Ara NAZARYAN	Deputy Minister of Defence
Mr Levon AYZAZYAN	Deputy Head of Defence Policy Department
Mr Ara MESROBYAN	Head of Division, Defence Policy Department
Mr Arman POGHISYAN	Deputy Head of Investigation Service
Mr Hayk STEPANYAN	Deputy Head of Military Police Department
Mr Sasun SIMONYAN	Head of Division, Legal Department

**Ministry of Health**

Mr Aleksandr GHUKASYAN	Deputy Minister of Health
Mr Suren KRMOYAN	Legal Adviser to the Minister of Health

**B. OTHER AUTHORITIES**

**Prosecutor General's Office**

Mr Aghvan HOVSEPYAN	Prosecutor General
Mr Koryun PILOYAN	Senior Prosecutor
Ms Nelly HARUTYUNYAN	Head of International Legal Relations Division
Mr Vardan AVETISYAN	Acting Head of Department for Supervision of Implementation of Criminal Sanctions and Other Compulsory Measures
Ms Sona TRUZYAN	Press Secretary

**Special Investigation Service**

Mr Andranik MIRZOYAN	Head of Special Investigation Service
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**Office of the Human Rights Defender**

Mr Armen HARUTYUNYAN	Human Rights Defender
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**C. INTERNATIONAL ORGANISATIONS**

Delegation of the International Committee of the Red Cross (ICRC) in Yerevan

Office of the Organization for Security and Co-operation in Europe (OSCE) in Yerevan

**D. NON-GOVERNMENTAL ORGANISATIONS**

Public Monitoring Group on the observance of prisoners' rights

Public Monitoring Group on the observance of the rights of persons held in police detention facilities

Civil Society Institute

Helsinki Association for Human Rights

Helsinki Citizen's Assembly – Vanadzor

Helsinki Committee of Armenia

Forum Law Centre

Mental Health Foundation