



Response

of the Armenian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Armenia

from 5 to 15 October 2015

The Armenian Government has requested the publication of this response. The CPT's report on the October 2015 visit to Armenia is set out in document CPT/Inf (2016) 31.

Strasbourg, 22 November 2016

In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, certain names have been deleted.

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Yerevan, 12 October 2016

INTRODUCTION

The context of the visit

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter, the CPT or the Committee) carried out its 4th periodic visit to Armenia from 5 to 15 October 2015, pursuant to Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The visit provided the opportunity to assess the measures taken by the Armenian authorities in response to the recommendations made by the CPT in its previous visits.

The establishments visited

The delegation visited the following Police establishments: Detention Centre of Yerevan City Police Department, Kentron District Police Division, Yerevan, Shengavit District Police Division, Yerevan, Akhuryan Police Division, Ani Police Division, Maralik, Armavir Police Division, Ashtarak Police Division, Dilidjan Police Division, Echmiadzin Police Division, Hrazdan Police Division, Mush Police Division, Gyumri, Sevan Police Division, Spitak Police Division and Talin Police Division. The delegation carried out a follow-up visit to one military detention facility, in particular, the Isolator of the Military Police Headquarters in Yerevan. It visited for the first time Armavir and Vanadzor Prisons. Further it paid follow-up visits to Nubarashen Prison, Yerevan-Kentron Prison and the Central Prison Hospital. The delegation also went to Artik Prison to interview the remand prisoners. Finally, a first-time fully fledged visit to the Nubarashen Psychiatric Medical Centre in Yerevan (including a follow-up visit to its Forensic Psychiatric Unit) and a first-time visit was carried out to Gyumri Mental Health Centre, Gyumri.

Recent legislative developments

The reforms of criminal legislation and justice sector are considered as priority for the Armenian authorities. The ultimate goal is to amend and put the relevant legislation and practice in conformity with both international and European standards. The improved legislation will, *inter alia*, guarantee better protection for the fundamental rights of persons deprived of liberty. In this context, the following measures aimed at improving the situation of those deprived of liberty must be highlighted.

❖ The package of laws amending **legislation criminalising torture** was adopted by the Parliament on 9 June 2015 and the amendments entered into force on 18 July 2015. Following these legislative reforms the national legislation criminalising torture was brought in line with international best practice and international obligations of Armenia. Taking into account that former legislation criminalising torture did not include crimes committed by public officials, as well as it lacked the purposive element recognised in the UN Convention against Torture (hereinafter, the UNCAT), the article defining torture was totally changed and brought in full conformity with Article 1 of the UNCAT. In addition, it is guaranteed that all public officials engaged in conduct constituting torture are charged accordingly, and that the penalty for this crime reflects the gravity of the act of torture as required by Article 4 of the UNCAT. Moreover, in contrast with the former legislation - according to which the sole ground for initiating criminal proceedings was the victim's complaint (private criminal prosecution) - following the amendments made to the Code of Criminal Procedure the cases of torture are subject to public criminal prosecution. Furthermore, according to the amendments the acts of torture committed by private actors are also subject to public prosecution.

❖ Another step forward can be considered the improvement of the mechanism for **ensuring the rights of persons deprived of liberty**. In cooperation with Human Rights Defender's

(hereinafter, the HRD) Office and practicing lawyers the *Law on Holding Arrested and Detained Persons* has been amended. Following the amendments the person deprived of liberty is entitled to meet his defence counsel or an advocate visiting to undertake the defence of the case in private, without hindrance, limitation to the number and length of the meetings and irrespective of the working days or hours. He/she also has a right to meet not only with his/her defence counsel but also with any advocate not involved in the defence of his/her case for matters not connected with the investigation of the case (e.g. divorce or any other civil matter).

❖ Acknowledging that preventive remedies alone would clearly not be sufficient because a remedy designed to prevent the violations of Article 3 of the European Convention on Human Rights (hereinafter, the ECHR) from occurring would not be adequate to provide a redress in a situation where the individual has already been subjected to torture, inhuman or degrading treatment or punishment, the Government put in place the system of compensatory remedies capable of providing redress for the violation that have already occurred. Based on the domestic legislation, monetary compensation is available to anyone who has been subjected to torture, inhuman or degrading treatment or punishment and who made an application to that effect.¹ Furthermore, in compliance with point 33 of the *Action Plan deriving from the National Strategy on Human Rights Protection (2014-2016)*,² amendments are being drafted that will guarantee the provision of means for rehabilitation for anyone who has suffered harm as a result of any form of ill-treatment (in principle this shall include medical and psychological care as well as legal and social services).

❖ On 17 May 2016 the *Law on Probation* was adopted by the National Assembly and entered in to force on 4 June 2016. At the same time, on 14 July 2016 the *Charter and the Structure of the Probation State Service* were established by Government Decree No. 742-N (N 742-Ն). The adoption of *Law on Probation* entailed development of comprehensive implementing regulations deriving thereof which are at present in the drafting process. In this context, the *List of Measures on Implementation of the Law* has already been approved. *The Procedure for Engaging Volunteers* was drafted, circulated and submitted to the Government of Armenia. *The Procedure on Collecting and Using State Repository of the Probation* has been circulated. *The Procedure on Implementing Activities for Re-socialisation* is being drafted. In addition, a 24-month-long project **Support to the Establishment of Probation Service in Armenia** was completed in cooperation with the Council of Europe. The project aimed at introducing a probation service in two pilot regions of Armenia using the Council of Europe standards and best European practices. Specific objectives of the project were: (i) technical support to the establishment of Probation Service, including introduction of a pilot electronic monitoring system; (ii) training of probation service staff and other related professionals in two pilot regions. The objectives were achieved through development of training curricula on probation, organisation of training-for-trainers (ToT) on probation for national trainers from different training institutions and universities, facilitation of follow-up cascade trainings, including initial, in-depth and in-service training courses, study visits to Council of Europe member states, as well as development of pre-release and post-release re-integration programmes for offenders.³

¹ Following the amendments of 2014 to RA Civil Code, the institute of compensation for non-pecuniary damage has been introduced into Armenian legal system. Article 162.1 § 2 of the Civil Code stipulates ... *A Person, and in case of his death or incapacity, his spouse, parent, adoptive parent, child, adoptee, custodian, trustee are entitled to claim compensation through the court for non-pecuniary damage caused to him/her, if it has been established by the investigating authority or the court that the decision, action or inaction of a state body or local self- government authority or their official has resulted in the violation of the person's ... [right] ... not to be subjected to torture or inhuman or degrading treatment or punishment ...*

² Approved by Government Decree No. 303-N (N 303-Ն) of 27 February 2014

Point 33 of the Action Plan reads as follows: “Envisage by legislation of the Republic of Armenia the regulation of proportionate compensation and rehabilitation for damages caused by torture, in accordance with Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.”

³ <http://www.coe.int/en/web/yerevan/completed-projects>

❖ Pursuant to *2012-2016 Strategic Programme of Legal and Judicial Reforms in the Republic of Armenia and the List of Measures Deriving from the Programme*⁴, draft new Code of Criminal Procedure (hereinafter, the draft CCP), draft new Criminal Code (hereinafter, the draft CC) and draft new Penitentiary Code are in the process of being drafted.

❖ The draft CCP has been finalised and submitted to the National Assembly. Discussions were held at the Standing Committee on State and Legal Affairs of the Parliament, and all the proposals made were incorporated in the text of the draft. Furthermore, from 15 to 17 April 2016 second consultation meetings were held with international experts on the draft CCP. The proposals made were incorporated in the text of the draft, the draft text was harmonised with the Constitution amended on 6 December 2015 and submitted to the Council of Europe expertise.⁵ On 11 October 2016 the finalised draft was sent to the Government of Armenia to further submit it to the National Assembly consideration.

It is worth to mention that the draft CCP seeks to promote many internationally recognised principles concerning the investigation mechanisms and observance of human rights in the course of criminal proceedings. Special attention is paid to establishing safeguards against any form of ill-treatment and to ensuring further effective investigation thereof. For these purposes, guarantees are provided to protect minimum procedural rights of an arrested person from the very moment of factual deprivation of liberty. Furthermore, a broad list of alternative preventive measures (e.g. house arrest, administrative supervision, bail, etc) is stipulated that will especially contribute to decreasing the resort to pre-trial detention.

❖ Turning to the draft CC, the draft was put into circulation in September 2015. It further has been finalised based on the proposals received and submitted to the Administration of the Republic of Armenia President for opinion in July 2016. According to the General Part of the draft CC, the imprisonment is recognised a measure of last resort and new alternative forms of punishment are stipulated (e.g. restriction of public rights, deprivation of parental rights, short term limitation of liberty, etc.).

❖ The Concept Paper of the new draft Penitentiary Code has been finalised and sent for international expertise. A positive feedback was received, and, at present, the Working Group is drafting the new Penitentiary Code.

Projects in cooperation with the European Union and Council of Europe

❖ A new EU/CoE project *Supporting the Criminal Justice Reform and Combating Ill-treatment and Impunity in Armenia* was launched in September 2015.⁶ This 24-month-long project is aimed at strengthening the implementation of European human rights standards in Armenia. In particular, it is expected to improve the legislation on criminal matters and institutional mechanisms for combating ill-treatment in line with European human rights standards, to strengthen the capacity of the Academy of Justice to train prosecutors and investigators on criminal justice and human rights and to improve the knowledge and skills of investigators on criminal justice and human rights, including effective investigations of ill-treatment cases.

⁴ Approved by the Republic of Armenia President Decree No. NK-96-A (ՆԿ-96-Ա) of 30 June 2012

⁵ The consultations and further working process (incorporating the proposals made in the text of the draft, harmonising it with the Constitution amended in 2015 and submitting the finalised text to the Council of Europe expertise) were organised in the framework of the EU/CoE joint project *Supporting the Criminal Justice Reform and Combating Ill-treatment and Impunity in Armenia*. In the framework of the consultations held, the draft CC was also discussed and a further written opinion on some issues was submitted by the Council of Europe experts.

⁶ <http://pjp-eu.coe.int/en/web/eap-pcf/press>

❖ Another EU/CoE project *Penitentiary reform - Strengthening Healthcare and Human Rights Protection in Prisons in Armenia* (2015-2017) aimed at improving the capacity of the penitentiary staff of applying the relevant European prison standards is being implemented.⁷ It is envisaged that upon completion of the mentioned project the legal and institutional framework of healthcare in prisons will be brought in line with European standards, the material conditions of penitentiary institutions' healthcare units will be upgraded with new equipment and medical and non-medical prison staff will be trained on the European prison healthcare standards, human rights and medical ethics. As a result, during their incarceration inmates will have access to requisite medical care which will not only preserve but, when needed, will also enhance their physical and mental health status and thus will facilitate their reintegration to the society.

⁷ Ibid.

RESPONSE

TO THE RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION ARISING FROM THE REPORT OF THE CPT ON ITS VISIT TO ARMENIA FROM 5 TO 15 OCTOBER 2015

The Government expresses its commitment and readiness for providing the fullest cooperation to the CPT both in terms of steps taken to facilitate the task of visiting delegation and of measures undertaken in response to the CPT's recommendations. The Armenian authorities value the constructive dialogue established with the Committee and assure that particular attention is paid to all the recommendations and comments submitted. In this regard it should be mentioned as well that based on the necessity to ensure wider dissemination of the CPT's Report on the visit carried out to Armenia in 2015 (hereinafter, the Report) and better implementation thereof, the Report has been translated into Armenian.

I. INTRODUCTION

E. NATIONAL PREVENTIVE MECHANISM

With reference to paragraph 9 of the Report

The Committee requested for information on the status of the draft amendments to the Act on Human Rights Defender of the Republic of Armenia.

1. Following the 2015 Constitutional amendments, a new Constitutional Law on Human Rights Defender was drafted (hereinafter, the Draft). Therefore, the draft amendments to the Act on Human Rights Defender which were expected to be adopted before the end of 2015 have not been enacted.

2. Among the others, in line with the Guidelines and recommendations⁸ of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter, the SPT), as well as part IV of the Optional Protocol to the UNCAT (OPCAT), the Draft addresses the issue of ensuring the proper functioning of the National Preventive Mechanism (hereinafter, the NPM) and the Expert Council on Torture Prevention⁹. In particular, in contrast to the existing legislation, specific regulations regarding the functions and the mandate of the NPM have been included in the Draft. Furthermore, the Draft specifically stipulates that the issues of composition, election, scope and working procedure of any Expert Council shall be defined and approved by the HRD. Currently, the draft is pending the first reading at the National Assembly.

With reference to paragraph 10 of the Report

The Committee advised to consider the publication¹⁰ and translation of the NPM Reports.

3. In contrast to the Act on Human Rights Defender in force at present, the Draft explicitly provides that the HRD in its capacity as an NPM shall publish an annual report in the first trimester of the year. Therefore, once the Draft is adopted, the issue raised by the CPT will be resolved, since the NPM reports will be published separately, instead of being reflected in the HRD's annual report. As to the question of translating the NPM reports and making them available in languages other than Armenian, it should be mentioned that the HRD Office informed that due to lack of financial and human resources it was not possible to ensure the translation thereof.

With reference to paragraph 11 of the Report

The Committee requested for information on the steps taken to address the problem of institutional aspect of organising the work of torture prevention.

⁸ Recommendations were made in the report of the SPT on its visit to Armenia carried out in September 2013. See document CAT/OP/ARM/1, published on 22 May 2015.

⁹ The Expert Council assists the NPM in its activities.

¹⁰ In particular, at the time of the visit the delegation was told that the reports on the NPM visits to places of detention were as a rule not published and relevant information was instead reflected in the Ombudsman's annual report (which was public document).

4. Regarding the SPT's recommendation to articulate a unified vision of organising the work of torture prevention¹¹, also mentioned by the CPT in the Report, the issue is of an institutional nature and has not been regulated yet. However, steps have been undertaken to partially address the SPT's recommendations.

5. In this context, in May 2016 the HRD Office informed that based on the Decision of former Ombudsman the mandate of the NPM Expert Council had been expired on 31 December 2015. A new regulation has been drafted, according to which a new NPM Expert Council will be established. There will be an explicit prohibition for the Expert Council member to simultaneously sit on another monitoring group.

6. According to the information published by the HRD Office on 29 September 2016, the new NPM Expert Council was established based on the HRD Decision of 28 September 2016. This Council is comprised of NGO representatives and independent experts (a psychologist, sociologist, doctor, etc.) experienced in prevention of any form of ill-treatment.

7. Furthermore, the Order of the Head of the Police establishing the Police Monitoring Group¹² stipulates an explicit prohibition for the member of this Group to sit on another monitoring group. The Order of the Minister of Justice establishing the Prison Monitoring Group was amended on 8 July 2015 and an identical prohibition was added.¹³

8. It is also noteworthy that in compliance with point 34 of the *2014-2016 Action Plan deriving from the National Strategy on Human Rights Protection*,¹⁴ the practices of and challenges faced by different oversight mechanisms aimed at torture prevention, specifically that of the NPM and monitoring groups, have been examined. In this respect following the Ministry of Justice request the OSCE Yerevan Office has provided a desk study on best international practices of the field. Moreover, the Ministry of Justice has conducted a research on international standards and practices. Based on the results, the respective proposals to design an effective model for acceptance and examination of complaints regarding the cases of torture and ill-treatment at places of deprivation of liberty have been submitted to the Government.¹⁵ The procedural solutions for acceptance and examination of complaints regarding the cases of torture and ill-treatment at places of deprivation of liberty are proposed to be stipulated in the draft new Penitentiary Code of the Republic of Armenia.

¹¹ See document CAT/OP/ARM/1, §§ 20-24, published on 22 May 2015.

¹² Order No. 1-N (N 1-Ն) of the Head of the Police on Approving the Order of Activities of the Republic of Armenia Police Detention Facilities Monitoring Group dated 14 January 2005

¹³ Order No. 311-N (N 311-Ն) of 8 July 2015 on Making an Addition and Supplements to the Order No. KH-66-N (N ԶԶ-66-Ն) of 18 November 2005 of the Minister of Justice

¹⁴ Point 34 provided for the necessity to study the international practice of establishing an independent mechanism for acceptance and assurance of the further process of complaints regarding the cases of torture and ill-treatment at places of deprivation of liberty.

¹⁵ The proposals were submitted to the Government on 25 December 2015. As a follow-up, the Prime Minister instructed the Ministry of Justice to elaborate a corresponding legal act.

I. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. POLICE ESTABLISHMENTS

1. Preliminary Remarks

With reference to paragraphs 14, 27 and 29 of the Report

The Committee recommended:

to take all the necessary steps to ensure that the legal requirement to draw up a protocol of detention within three hours is strictly complied with in practice and that the procedures of “inviting a person to a Police establishment” or of summoning witnesses to an interview are not exploited by Police officers to circumvent the legal time-limits and safeguards in respect of the police custody of criminal suspects (paragraph 14 of the Report);

to ensure that persons in Police custody are effectively in a position to exercise their rights from the very outset of their deprivation of liberty (i.e. as from the moment they are obliged to remain with the police). Concerning the notification of custody in particular, any possibility to delay the exercise of this right should be clearly circumscribed in law and made subject to appropriate safeguards (e.g. any delay to be recorded in writing with the reasons therefore, 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 27 of the Report);

to ensure that whenever a person is taken/summoned or “invited” to a Police establishment, for whatever reason (including for interviews with an operational officer), his/her presence is always duly recorded. In particular, the records should mention who was brought in/summoned/“invited”, by whom, upon whose order, at what time, for which reason and in which capacity (suspect, witness, etc.), and when the person left the premises of the Police establishment concerned (paragraph 29 of the Report).

9. According to the existing case-law of the Court of Cassation¹⁶, a person, from the moment of entry into the administrative building of the inquiry body or of a body that has the power to conduct the proceedings and before acquiring the legal status of an arrested person, acquires a preliminary status of a “brought” person and shall be granted with the minimum rights which are as follows: (i) to know the reason for depriving him/her of liberty; (ii) to inform a third person about his/her whereabouts; (iii) to invite an attorney; (iv) to remain silent. Furthermore, these minimum rights are, *mutatis mutandis*, applicable to the persons not having the legal status of an arrested or detained person, who can reasonably presume that their right to liberty is restricted or they are deprived of liberty and are being suspected of having committed a crime. Therefore, these minimum rights are enforceable regardless of the official status of the “brought” person. As an additional guarantee, the case-law establishes that, after 4 hours of factual deprivation of liberty, in case if the person is not informed that an arrest record in his/her respect has been drawn, from that very moment, he/she automatically acquires the legal status of an arrested person, and thus, shall be granted all the rights and guaranties of the arrested person provided by law.

10. As justly noted in the Report by the CPT, the draft CCP, *inter alia*, encompasses provisions reinforcing the existing safeguards against ill-treatment for the persons deprived of their liberty by the Police and will eliminate the *lacunae* of the present Code in respect of “informal talks”. The adoption of the draft CCP will be followed by the adoption of new implementing regulations for the Police. In particular, in the framework of the planned amendments it is envisaged to make it clear that the period spent by persons “invited” to Police establishments for “informal talks” is to be considered (and recorded) as period of Police custody, and that all the relevant safeguards must be applicable accordingly.

¹⁶ Court of Cassation of the Republic of Armenia, decision on criminal case No. EADD/0085/06/09 (դրոշմով թիվ ԵԱԴԴ/0085/06/09) dated 18 December 2009

11. Pending that and in the light of the CPT delegation's visit, the practice of "inviting persons" for informal talks by the Police has been examined. Based on the recommendations of the CPT, the Police territorial divisions, *inter alia*, have been instructed¹⁷ to organise the procedure of apprehension and record keeping in accordance with the CPT standards.

12. In addition, on 12 April 2016 the Police territorial divisions have been instructed¹⁸ to ensure that whenever a person is "invited" to a Police establishment, his/her presence shall always be duly recorded. In particular, the records shall mention who was invited, by whom, at what time, for which reason and in which capacity, and when the person left the premises of the Police establishment concerned.

13. In connection with paragraph 29 of the Report, in particular, the incident of the Police officer completing the record some hours after the person concerned had physically left the premises of the Shengavit District Police Division, disciplinary proceedings have been instituted. As a result, it has been established that the Police officer concerned has failed to promptly record the time of release of the brought person (brought on 10 October 2015 at 08:00am) in the register. Following the conducted proceedings, he has been subjected to disciplinary liability in a form of severe reprimand.

2. Ill-treatment

With reference to paragraphs 15 and 16 of the Report

The Committee recommended that the Armenian authorities continue to deliver, at regular intervals and from the highest level, a firm message of "zero tolerance" of ill-treatment to all Police officers.

Further, Police staff should again 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.

14. On 27 November 2013 the Head of the Police gave a specific Instruction¹⁹ on *Ensuring the Application of Legal Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*. The Heads of Police Headquarters Divisions, those of Yerevan City and territorial departments and subdivisions thereof have been instructed to ensure that: (i) Police officers' conduct is in accordance with the CPT standards when apprehending, arresting persons or performing any other action with respect to them within the limits of their competence; (ii) record keeping of cases of ill-treatment and complaints against such treatment is effectuated in accordance with the CPT standards; (iii) any case of detecting violation of the CPT standards, as well as of any *prima facie* similar complaint is reported to the administration of the Police and the relevant materials together with the complaint are sent to the Special Investigation Committee (hereinafter, the SIS) immediately, as prescribed by law; (iv) all Police officers are regularly informed of unacceptability of ill-treatment in the course of their activities and of inevitable liability for any such act.

15. It is to be noted that the abovementioned Instruction is included in the academic programme of the Police Academy and is taught, in particular, in the framework of the Undergraduate, Graduate and Distance Learning Programmes of the Faculty of Law, as well as in the College and the Faculty of Trainings and Qualification.

¹⁷ Instruction No. 2/2-1-3589 issued by the Chief of Staff of the Police on 21 October 2015

¹⁸ Documents Nos. 2/5-1315, 2/2-1344, 2/2-1346, 2/2-1347, 2/2-1349, 2/2-1350 given by the Chief of Staff of the Police on 12 April 2016

¹⁹ Instruction No. 20 of the Head of the Police dated 27 November 2013

16. In addition, continuous assistance is provided to law-enforcement agencies through organising periodic professional trainings and seminars aimed at preparing adequately trained and proficient team. Greater emphasis is given to the organisation of proper trainings for the Police based on the CPT and also the UNCAT recommendations. The Police Headquarters gives periodic assistance to the staff of the Police System by providing practical and methodological guidelines in respect of the implementation of the CPT and the UNCAT standards and recommendations.

17. In this framework based on the proposals made by the Office of the Government Agent before the European Court of Human Rights, as well as by the Ministry of Justice, separate mandatory subjects (*The CPT and the UNCAT Standards; The European Court of Human Rights judgments finding violation of Article 3 of the Convention delivered in respect of Armenia*) have been included in the academic curriculum of the Police Academy. Specific topics such as safeguards against ill-treatment of persons detained by the Police, specificities on holding detained persons at the Police, the standards of record keeping, standards of investigation of alleged ill-treatment cases at the Police, the standards on material conditions of places of holding arrested and/or detained persons, etc., will be taught in the framework of these subjects with the purpose of increasing both the academic knowledge and the professionalism of the Police staff in the respective field.

18. Apart from the measures undertaken and indicated hereinabove, the Police deliver - at regular intervals - a firm message of unacceptability of ill-treatment to all Police officers during the service trainings. In this context, it is planned to conduct additional activities to guarantee that while interacting with individuals, the Police officers respect the principle of lawfulness and strictly comply with the rules of ethics, as well as to ensure that no more force than is strictly necessary is used by the Police officers and deliver a firm message of inevitable liability for any such act.

With reference to paragraph 17 of the Report

The Committee recommended that further steps be taken to improve the screening for injuries at Police detention facilities, in particular by ensuring that:

- *all medical examinations are conducted out of the hearing and - unless the health-care professional concerned expressly requests otherwise in a particular case - out of the sight of non-medical staff;*

- *the confidentiality of medical documentation is strictly observed.*

Health-care staff may inform custodial officers on a need-to-know basis about the state of health of a detained person; however, the information provided should be limited to that necessary to prevent a serious risk for the detained person or other persons, unless the detained person consents to additional information being given.

The Committee reiterated its recommendation that steps be taken to ensure that the records drawn up following the medical examination of persons in Police detention facilities contain: (i) an account of statements made by the persons concerned which are relevant to the medical examination (including their description of their state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the health-care professional's observations in the light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings.

The Committee once again encouraged the Armenian authorities to take the necessary measures to extend the practice of conducting a systematic medical screening of newly-admitted detained persons to all Police detention centres in Armenia.

19. According to Article 21 of the *Law on Holding Arrested and Detained Persons* and point 13 of the Government Decree No. 574-N (N 574-Ն) of 5 June 2008 on *Approving Internal Regulations of Detention Facilities Operating in the Police System of the Republic of Armenia* (hereinafter, Government Decree No. 574-N), following the person's admission to the detention facility - if bodily injuries, evident signs of illness are discovered or the person complains of his/her health condition - the Police officer on duty shall invite a medical professional. The invited medical professional shall immediately conduct medical examination. A doctor of the detained person's choice can also take part in it. The medical examination shall be conducted out of the hearing and - if not otherwise requested by the examining doctor - out of the sight of the detention facility's administration. The Police officer who apprehended the person does not take part in the medical examination.

20. The results of the medical examination are recorded in the journal and in person's personal file. Furthermore, the explanations provided by the person regarding the causes of bodily injuries are also fully recorded. All these materials are communicated to the body conducting criminal proceedings and supervising prosecutor. The body conducting criminal proceedings assigns a forensic medical examination to verify the gravity and causes of bodily injuries. Whenever there are grounds for instituting criminal proceedings, the materials prepared are transferred to the SIS based on the decision of a prosecutor.

21. Highlighting the importance of introducing an adequate complaint mechanism against possible abuses and pressures towards persons subjected to ill-treatment, the draft CCP provides that immediately after bringing before the inquiry body a protocol should be filed which, among the others, includes information on the injuries (if any) visible on the body or on the clothes of the arrested person, and his/her noticeable physical and mental state.²⁰ Moreover, as an additional guarantee, for ensuring proper medical recording of injuries the draft CCP strictly stipulates that if in the presence of evident bodily harm the court finds that the accused was denied requisite medical care or the investigator failed to present the court reasonable justification as to the causes of the harm, the court will reach the conclusion that grave violations of law were committed when arresting the person, which is the ground for rejection of the motion to apply or to prolong the term of detention as a measure of restraint.²¹

22. As to the existing practice of performing medical examinations, based on the results of the conducted survey in many cases the invited medical professionals having concerns about staying alone with the arrested person request the Police officer (never the one who apprehended him/her) to be present during the examination. Thus, the Police officer is being present during the medical examination whenever requested by the examining doctor to ensure the security of the latter. It is to be noted that taking into consideration the CPT recommendations, on 21 October 2015 the Chief of Staff of the Police instructed²² the Police territorial divisions to conduct medical examination of persons deprived of liberty, as well as to record the results thereof in strict compliance with the CPT standards and recommendations. Another Instruction was given on 10 February 2016²³. Accordingly, the Police territorial divisions have been instructed to strictly comply with the requirement that medical examination shall be conducted out of the hearing and - if not otherwise requested by the examining doctor - out of the sight of the detention facility's administration. Turning to the issue of the confidentiality of medical documentation, it is strictly observed.

²⁰ Article 109 of the draft CCP

²¹ Article 295 of the draft CCP

²² Instruction No. 2/2-1-3589 given by the Chief of Staff of the Police on 21 October 2015

²³ Instruction No. 2/2-1-441 given by the Chief of Staff of the Police on 10 February 2016

With reference to paragraph 18 of the Report

The Committee reiterated its recommendation that the medical screening of newly-admitted detained persons at the Detention Centre of the Yerevan City Police Department be performed by health-care staff who are independent of the Police.

The Committee also reiterated its recommendation that the task of recording any injuries displayed by detained persons on admission to other Police detention facilities in Armenia (i.e. all those without their on-site health-care staff) be carried out by a health-care professional, if necessary, by having recourse to the emergency services.

23. There are 4 positions of feldshers at the Detention Centre of Yerevan City Police Department, who are entitled only to provide first aid. It is out of their competences to carry out a medical examination. Therefore, as mentioned hereinabove, according to Government Decree No. 574-N, following the person's admission to the detention facility if bodily injuries, evident signs of illness are discovered or the person complains of his/her health condition, the Police officer on duty shall invite a medical professional from the institutions operating under the authority of the Ministry of Healthcare. After carrying out medical examination, the latter shall make respective medical records in the dedicated journal and person's personal file. Hence, the medical examination of newly arrived detained persons is performed by health-care staff independent from the Police.

With reference to paragraph 19 of the Report

The Committee requested to be provided with the following information in respect of the whole of 2015 and the first half of 2016:

- *the number of complaints of ill-treatment by the Police received by the Police of Armenia and by the relevant investigative and prosecution services (i.e. the total cumulative number);*
- *the number of criminal/disciplinary proceedings which have been instituted as a result of those complaints;*
- *the number of criminal/disciplinary proceedings which have been instituted ex officio (i.e. without a formal complaint) into possible Police ill-treatment;*
- *the outcome of all those proceedings, including an account of criminal/disciplinary sanctions imposed on Police officers.*

24. *The Police:* In the course of 2015 the Police received 108 complaints (allegations, reports) of ill-treatment by the Police officers during the performance of their duties. Based on these complaints 108 disciplinary proceedings have been initiated. As a result:

- the allegations of ill-treatment have not been proved and no violation has been established in 95 disciplinary proceedings;
- Disciplinary sanctions have been imposed on 12 Police officers (in the form of reprimand - on 7 Police officers and in the form of dismissal from the Police force - on 5 Police officers) in 7 disciplinary proceedings;
- 6 disciplinary proceedings have been suspended. It has been decided to consider the question of disciplinary liability of the Police officers concerned after the outcome of the criminal proceedings initiated.

25. Based on the materials of these 6 disciplinary proceedings suspended, criminal proceedings have been initiated by the investigative authorities. Accordingly:

- 1 case was submitted to a court with an indictment based on the grounds prescribed by Article 309 § 1 and Article 118 of the Criminal Code. At present, the case is in a trial stage;
- 2 cases were submitted to a court with an indictment based on the grounds prescribed by Article 309 § 2 of the Criminal Code. At present, the cases are in a trial stage;
- 3 cases are being investigated into, of which one was initiated based on the grounds prescribed by Article 309 § 2, the second - by Article 309 § 2, Article 164 § 2 and Article 185 § 1 and the third - by Article 309 § 1 of the Criminal Code.

26. In the first half of 2016 the Police received 52 complaints (allegations, reports) of ill-treatment by the Police officers during the performance of their duties. Based on these complaints 52 disciplinary proceedings have been initiated. As a result:

- the allegations of ill-treatment have not been proved and no violation has been established in 46 disciplinary proceedings;
- 6 disciplinary proceedings have been suspended. It has been decided to consider the question of disciplinary liability of the Police officers concerned after the outcome of criminal proceedings initiated.

27. Based on the materials of these 6 disciplinary proceedings suspended, criminal proceedings have been initiated by the investigative authorities. Accordingly:

- 3 cases are being investigated into based on the grounds prescribed by Article 309 § 2 of the Criminal Code;
- 2 cases are being investigated into based on the grounds prescribed by Article 309.1 § 1 of the Criminal Code;
- 1 case is being investigated into based on the grounds prescribed by Article 309.1 § 2 of the Criminal Code.

28. The Prosecutor's Office: Based on the information provided by the General Prosecutor's Office, the Prosecutor's Office received 101 written complaints of ill-treatment by the Police officers in 2015. As a result, 74 criminal proceedings have been initiated, 3 of which by the Prosecutor's Office. As of 1 June 2016, the number of complaints received was 44. Consequently, 33 criminal proceedings have been initiated, 1 of which by the Prosecutor's Office.

29. The SIS: In the course of 2015, materials have been prepared on 73 cases for illegally holding the persons at the divisions of the Police and other bodies, for factually depriving them of liberty, for torture and inhuman or degrading treatment, as well as for other violations of human rights by public officials. Correspondingly, based on the materials prepared, decision of rejecting the initiation of criminal proceedings was made in respect of 12 cases on the grounds of the lack of crime or *corpus delicti*. Based on 61 materials, criminal proceedings have been instituted.

30. Throughout 2015, the SIS investigated into 114 criminal cases of the above-mentioned nature. 110 out of 114 have been initiated on the ground of torture,²⁴ the other 4 - on other grounds. These 114 criminal cases include:

- 24 cases transferred from 2014;
- 81 cases initiated by the SIS;
- 3 cases initiated by the Prosecutor's Office;
- 4 cases initiated by other investigative authorities;
- 2 reopened cases.

31. As a result of the criminal proceedings conducted:

- 1 case was submitted to a court with an indictment in respect of a person;
- in respect of 70 cases, criminal proceedings have been terminated, of which 69 for the lack of crime or *corpus delicti* and 1 for the expiry of the statute of limitation;
- in respect of 1 case, criminal proceedings have been suspended, since the whereabouts of the accused were unknown;

²⁴ 102 criminal cases have been initiated on the grounds prescribed by Article 309, 8 criminal cases – on the grounds prescribed by Article 309.1 of the Criminal Code.

- in respect of 1 case, the criminal proceedings have been joined to another one;
- 5 cases have been transferred to other investigative authorities, after terminating the part of the criminal proceedings regarding the SIS jurisdiction;
- 1 case was submitted to a court with an indictment for committing another act, after terminating the part of the criminal proceedings regarding the SIS jurisdiction;
- in respect of 3 cases, the decision to institute criminal proceedings was quashed by a prosecutor;
- in respect of 32 cases, the preliminary investigation continues in 2016.

32. During the first 5 months of 2016, materials have been prepared on 30 cases by the SIS. In this context, decision of rejecting the initiation of criminal proceedings has been made on 1 case on the grounds of the lack of crime, proceedings have been instituted on 26 cases, materials in respect of 1 case have been attached to another one already initiated, and materials in respect of 2 cases are in the preparatory stage.

33. As of 1 June 2016, the SIS investigated into 63 criminal cases of the abovementioned nature. 61 out of 63 have been initiated on the ground of torture,²⁵ the other 2 - on other grounds. These 61 criminal cases include:

- 32 cases transferred from 2015;
- 29 cases initiated by the SIS;
- 1 case initiated by other investigative authorities;
- 1 reopened case.

34. As a result of the criminal proceedings conducted:

- in respect of 28 cases, criminal proceedings have been terminated on the grounds of the lack of crime;
- in respect of 1 case, criminal proceedings have been suspended, since the whereabouts of the accused were unknown;
- 2 cases were submitted to a court with an indictment for committing another act, after terminating the part of the criminal proceedings regarding the SIS jurisdiction;
- as of June 2016, in respect of 32 cases, the preliminary investigation continues.

35. As it can be inferred from the statistics reflected hereinabove, the number of terminated criminal proceedings instituted on the ground of alleged ill-treatment is higher compared to those sent to the court with an indictment. The high number of terminated proceedings is mainly connected to abuse of rights, i.e. when individuals having committed different crimes, with the purpose of defending against charges brought, as well as seeking their investigation testimonies to be declared inadmissible, lodge with the authorities, in particular with the Prosecutor's Office, the SIS, the HRD a number of complaints about the use of physical and psychological violence against them. In a number of cases the trial participants make false statements in the course of the trial on having been tortured.

36. In this respect, during 2015, overall 21 criminal cases were instituted under Articles 333 and 338 of the Criminal Code for false crime reporting and false testimony that had been revealed during the investigation of all types of criminal cases. 8 of these cases were transferred to the court with an indictment in respect of 8 accused, 2 cases were terminated for the lack of *corpus delicti*, 3 cases were sent to other investigative authorities, 1 case was joined to another case, and the investigation in respect of 7 cases continues in 2016.

²⁵ 50 criminal cases have been initiated on the grounds prescribed by Article 309, 11 criminal cases – on the grounds prescribed by Article 309.1 of the Criminal Code.

37. During the first 5 months of 2016, overall 24 criminal cases were instituted under Article 333 of the Criminal Code for false crime reporting that had been revealed during the investigation of all types of criminal cases. 12 of these cases were submitted to the court with an indictment in respect of 12 accused, 1 case was terminated for the lack of *corpus delicti*, 2 cases were sent to other investigative authorities, 2 cases were joined to another case, and the investigation in respect of 7 cases continues.

With reference to paragraph 20 of the Report

*The Committee wished to receive further information about the content of the curricula of the Justice and Police Academies, as well as about any other training reforms envisaged in the context of the multi-year joint project Supporting the Criminal Justice Reform and Combating Ill-treatment and Impunity in Armenia*²⁶.

38. First of all, as mentioned hereinabove, continuous assistance is provided to law-enforcement agencies through organising periodic professional trainings and seminars aimed at preparing adequately trained and proficient team. Greater emphasis is given to the organisation of proper trainings for the Police based on the CPT and also the UNCAT recommendations. The Police Headquarters gives periodic assistance to the staff of the Police System by providing practical and methodological guidelines in respect of the implementation of the CPT and the UNCAT standards and recommendations.

39. *The Police Academy*: The Faculty of Trainings and Qualification of the Police Academy, *inter alia*, provides trainings on crime investigation methods and interview techniques.²⁷ In particular, the syllabus of the course on *Criminilastics* is periodically revised and a greater emphasis is given to the trainings on detection, retention, packaging, handling, initial evaluation and assessment of physical evidence with a particular attention on practical skills of trainees. Furthermore, training in advanced, recognised and acceptable interviewing techniques is also in the spotlight taking into consideration the peculiarities of the interviewee (such as age, views, etc.) as well as his/her procedural status (victim, witness, suspect, accused). It is to be noted as well that a specific topic on *Judicial Procedure for Investigative Activities in respect of a Minor Suspect or an Accused* has been included in the syllabus of the course on the *Law of the Criminal Procedure of the Republic of Armenia*.

40. In addition to the abovementioned, the Instruction of the Head of the Police on *Ensuring the Application of Legal Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*²⁸ is included in the academic curriculum of the Police Academy and is taught, in particular, in the framework of the Undergraduate, Graduate and Distance Learning Programmes of the Faculty of Law, as well as in the College and the Faculty of Trainings and Qualification.

²⁶Launched on 30 September 2015 and scheduled to run until 31 June 2017 <http://www.coe.int/en/web/yerevan/supporting-the-criminal-justice-reform-and-combating-ill-treatment-and-impunity-in-armenia>, <http://pjp-eu.coe.int/en/web/eap-pcf/press>, accessed on 5 October 2015.

²⁷ Beneficiaries: the operational officers of crime intelligence, the officers responsible for the cases regarding minors, the officers of inquiry of the Police.

²⁸ For more details, see § 14 of the present document.

41. In this framework based on the proposals made by the Office of the Government Agent before the European Court of Human Rights, as well as by the Ministry of Justice, separate mandatory subjects (*The CPT and the UNCAT Standards, The European Court of Human Rights Judgments Finding Violation of Article 3 of the Convention delivered in respect of Armenia*) have been included in the academic curriculum of the Police Academy. Specific topics such as safeguards against ill-treatment of persons detained by the Police, specificities on holding detained persons at the Police, the standards of record keeping, standards of investigation of alleged ill-treatment cases at the Police, the standards on material conditions of places of holding arrestees and/or detainees, etc., will be taught in the framework of these subjects with the purpose of increasing both the academic knowledge and the professionalism of the Police staff in the respective field.

42. *The Academy of Justice*: It is to be noted that the training curriculum of the Academy of Justice includes a number of courses in the framework of which more advanced crime investigation methods are touched upon. In particular:

a) The syllabus of the course on *Contemporary Issues of the Criminal Procedure in the Republic of Armenia* included in the training curricula of the Academy of Justice for 2014-2016 covered the topic on *Legal Positions of the Constitutional Court and the Court of Cassation of the Republic of Armenia regarding the Conditions of Lawfulness of Conducting Separate Investigative Operations*. The discussions held during the course covered the key issues on search and seizure, in particular, the issues related to seizure of information containing bank secret, key issues related to examination of crime scene, seizure, packaging and sealing of items detected during search operations, assignment, as well as conduct of expert examinations and evaluation of findings.²⁹

b) Furthermore, the syllabus of the course on *Contemporary Issues on Tactics and Methodology of Criminalistics* included in the training programmes for 2014-2016 covered the topics on *Tactics of Examination of the Crime Scene* and *Tactics of Search and Seizure, Investigative Experiment and Other Investigative Operations*, and on the *Peculiarities of Investigative Tactics regarding Separate Types of Crimes*. The discussions held during the course covered tactical techniques and the peculiarities of carrying out the abovementioned investigative operations, including issues related to detection, seizure of material evidence and other issues.³⁰

c) The syllabus of the course on *Contemporary Issues regarding the Tactics of Criminalistics* included in the training programmes for 2015-2016 covered the topics on *Tactics of Examination of the Crime Scene, Tactics of Search and Seizure*. The discussions held during the course focused on the tactical techniques and peculiarities of carrying out the abovementioned investigative operations, including issues related to detection, seizure, custody and handling of physical evidence.³¹

d) The syllabus of the course on *Contemporary Issues of Methodology of Criminalistics* included in the training programmes for 2015-2016 covered the topics on *Methodology for Investigating into Crimes against Life and Health*, as well as *Methodology for Investigating into Crimes against Public Order and Morality*. The discussions held during the courses covered issues related to the methodology of investigation of separate types of crimes, including those related to physical evidence.³²

²⁹ Beneficiaries: prosecutors, investigators, as well as persons included in the list of candidates for prosecutors and investigators.

³⁰ Beneficiaries: persons included in the list of candidates for prosecutors.

³¹ Beneficiaries: persons included in the list of candidates for investigators.

³² Beneficiaries: persons included in the list of candidates for investigators.

e) The syllabus of the course on *Contemporary Issues on Assigning Expert Examinations and Evaluation of their Findings* included in the training programmes for 2015-2016 covered the topics on *Key Issues of Forensic Medical Examinations, Key Issues of Forensic Ballistic Examination*. The discussions held during the course covered key issues related to assigning, conduct and evaluation of findings of both the mentioned and other types of expert examinations.³³

43. Turning to the trainings that, among the others, cover the interview techniques, the following is to be mentioned:

a) The syllabus of the course on *ECtHR Case-law in Criminal Matters* included in the training programmes for 2014-2016 covered the topics on *Right to Confrontation of Witnesses, Presumption of Innocence: the Concept and Elements, Right to Remain Silent, Transferring the Burden of Proof, Procedural Guarantees on Avoiding the Use of Impermissible Evidence*. These topics covered the issues regarding the interrogation of the accused in the light of the rights guaranteed by Article 6 § 2 and § 3 (d) of the ECHR, including advanced, recognised and acceptable techniques of confrontation. During the training, the ECtHR case-law and that of the Court of Cassation of Armenia were applied.³⁴

b) The syllabus of the course on *Contemporary Issues of the Criminal Procedure in the Republic of Armenia* included in the training programmes for 2014-2016 covered the topic on *Legal Positions of the Constitutional Court and the Court of Cassation of the Republic of Armenia regarding the Conditions of Lawfulness of Conducting Separate Investigative Operations*. The discussions held during the course covered the key issues on interrogations, in particular, those of confrontation.³⁵

c) The syllabus of the course on *Contemporary Issues on Tactics and Methodology of Criminalistics* included in the training programmes for 2014-2016 covered the topics on *Tactics of Interrogation, Tactics of Interrogation and Submission for Identification and Tactics of Search and Seizure, Investigative Experiment and Other Investigative Operations*. The discussions held during the course covered the tactical techniques and peculiarities of carrying out the above-mentioned investigative operations.³⁶

d) The syllabus of the course on *Contemporary Issues on Methodology of Criminalistics* included in the training programmes for 2015-2016 covered the topics on *Methodology for Investigating into Crimes against Life and Health*, as well as *Methodology for Investigating into Crimes against Public Order and Morality*. The discussions held during the courses covered issues pertaining to the methodology for investigation into separate types of crimes, including issues related to the methodology for the interrogation of the victim, suspect, accused and witnesses.³⁷

³³ Beneficiaries: judges, prosecutors and investigators, as well as persons included in the list of candidates for judges, prosecutors and investigators.

³⁴ Beneficiaries: judges, prosecutors, investigators, investigators of the Special Investigation Service, persons included in the list of candidates for judges, prosecutors and investigators.

³⁵ Beneficiaries: prosecutors, investigators, as well as persons included in the list of candidates for prosecutors and investigators.

³⁶ Beneficiaries: persons included in the list of candidates for investigators.

³⁷ Beneficiaries: persons included in the list of candidates for investigators.

44. With reference to training reforms envisaged in the context of the multi-year joint project *Supporting the Criminal Justice Reform and Combating Ill-treatment and Impunity in Armenia* the following should be mentioned. Within the framework of this project training materials have been elaborated by national and international experts on 4 courses: 1) *Investigation of Cases of Torture and Other Forms of Ill-treatment and of Right to Life*, 2) *General Methodology for Investigation of a Criminal Case*, 3) *Investigation of Cases Involving Vulnerable Victims/Witnesses and Suspects* and 4) *Pre-trial Detention and Related Matters of Investigation of a Criminal Case*.

45. In this framework 4 sets of training-of-trainers were organised in June 2016. During the trainings both the national and international experts introduced to the participants the study materials regarding these 4 courses, as well as the specific teaching methodology thereof. It is to be noted the study materials regarding 4 courses have already been published and the courses started in October of this year.³⁸

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

With reference to paragraph 24 of the Report

The Committee requested for information on the outcome of the investigation into the events of June 2015 (referred to in paragraph 20 of the Report), as well as the outcome of any investigations initiated in the course of 2015 under Article 309.1 of the Criminal Code.

46. *Events of June 2015*: From 19 to 23 June 2015 demonstrations have been held in the capital of Armenia, Yerevan to protest against electricity rate hikes. The demonstrators had the possibility to fully benefit from their rights. They had enough time to raise their demands before the authorities and the public. More specifically, given the importance of respecting the right to freedom of assembly in a democratic society, at the outset of demonstrations, although it was not authorised to hold assembly till 11:00 pm, the Police allowed the protesters to stay, given the peaceful nature of the assembly and provided that the regulations of the *Law on Freedom of Assembly* are respected. At the same time the Police warned that otherwise it might exercise its powers to restore the public order. Furthermore, in the course of further development of the protests the demonstrators were regularly warned by the authorities about the illegal and unauthorised nature of the protests.

47. On 23 June 2016, the assembly was dispersed, as the further exercise of these rights impaired the public interest and pose threat to public order. In particular, the following was taken into consideration: (i) the leaders of the assembly violated Articles 28 (in particular, they avoided to officially introduce themselves as well as to announce the approximate time when the assembly would end) and 29 (in particular, from 10:00pm to 05:30am the sit-in of Baghramyan Avenue was accompanied by noise disturbing the residents of the houses adjacent to Baghramyan Avenue) of the *Law on Freedom of Assembly*; (ii) the continues and lengthy nature of the assembly (approximately 10 hours) and indefinite time of the end of the latter; (iii) the necessity to prevent the interference with the Constitutional right of many people to freedom of movement. Given the said, and governed by Article 33 § 1 of the *Law on Freedom of Assembly*, the Police addressed the leaders and participants of the assembly with a demand to end it. The demand was repeated at least twice and a timeframe (10 minutes) was given to end the assembly. At the same time the Police warned about the right to use special means as stipulated by the *Act on the Police*. Only after this, the assembly was dispersed according to Article 34 of the *Law on Freedom of Assembly*.

³⁸ Beneficiaries: investigators of the Investigative Committee of the Republic of Armenia and investigators of the SIS in relation to the course on *Investigation of Cases of Torture and Other Forms of Ill-treatment and of Right to Life*. In respect of other 3 courses the beneficiaries are investigators of Investigative Committee of the Republic of Armenia.

48. *Investigation into the events of June 2015:* On 2 July 2015, the SIS instituted criminal proceedings No. 62217915 on the grounds prescribed by Article 309 § 2, Article 164 § 2 and Article 185 § 1 of the Criminal Code. The criminal proceedings have been instituted taking into consideration the public media reports, publications and videos, as well as the reports submitted by the Chairman of Helsinki Citizens Assembly - Vanadzor NGO. In the process of the assessment of these materials, it has been revealed that on 23 June 2015, in the course of dispersing the assembly held on Baghramyan Avenue, in Liberty Square, the neighbourhood thereof and in different Police divisions, the representatives of law-enforcement agencies abused their powers which was accompanied by violence, caused bodily injuries to the participants and reporting journalists, damaged their equipment thus, hindering their legal professional activities, as well as inflicted essential damage to the legal interests and rights of citizens and organizations, to the public or state interests.

49. During the preliminary investigation 24 journalists, 24 participants of demonstrations and 200 Police officers have been interrogated. Victim status was given to 20 out of 24 journalists, to 22 out of 24 participants to ensure their rights in the course of proceedings. Furthermore, 10 forensic medical examinations, 3 complex forensic merchandising and traceological expertises have been assigned, dozens of video materials have been examined, inquiries have been conducted, the damaged equipment was seized, respective documents, copies of the materials regarding the disciplinary proceedings instituted by the Police have been included in the case-file, the Police officers subjected to disciplinary liability have been interrogated and confrontations have been organised. On 15 August 2016 criminal case No. 62221116³⁹ was disjoined from criminal case No. 62217915. Based on the materials gathered, verified and assessed in the course of investigation, the disjoined case was submitted to the court with an indictment in respect of 4 Police officers. As of September 2016, the preliminary investigation in respect of criminal case No. 62217915 was in process.

50. *The outcome of any investigations initiated in the course of 2015 under Article 309.1 of the Criminal Code:* In the course of 2015, 8 criminal cases have been initiated on the grounds prescribed by Article 309.1 of the Criminal Code. As of 1 June 2016 the number of cases initiated on the basis of the mentioned article was 7.

51. As of 1 June 2016, total of 15 cases initiated on grounds prescribed (including the cases of 2015) by Article 309.1 of the Criminal Code have been investigated into. 10 cases are under preliminary investigation, in respect of 5 cases, the proceedings have been terminated on the ground of the lack of *corpus delicti*.

With reference to paragraph 24 of the Report

The Committee made a comment on unacceptability of closing the investigations (if indeed such practices existed) concerning the Police officers further to their dismissal from the Police force.

52. Article 35 of the Code of Criminal Procedure provides for the exhaustive list of grounds for closing the investigation. The dismissal from the Police force is not a ground for doing it. Furthermore, there is no such a ground prescribed by the draft CCP. Therefore, both in legislation and practice no investigation was and can be closed on the basis of dismissal from the Police force.

With reference to paragraphs 25 and 26 of the Report

The Committee called upon the Armenian authorities to take urgent steps to review the system of handling cases involving possible ill-treatment by police officers, and in particular to ensure that:

³⁹ The criminal case was based on Article 164 § 2 - in respect of a person; on Article 164 § 2 - in respect of a person; on Article 164 § 2 - in respect of a person and on Article 164 § 1 and Article 185 § 1 of the Criminal Code- in respect of a person.

- *the SIS is significantly reinforced in terms of operational staff, thereby removing the need to rely on local police officers;*
- *increased emphasis is placed on the structural independence of the SIS and the existence of transparent procedures in order to enhance public confidence and ensure that persons alleging ill-treatment have direct and confidential access to the SIS;*
- *all formal complaints about police ill-treatment as well as all cases in which other information indicative of ill-treatment by the police has emerged, are promptly forwarded to and processed by the SIS;*
- *whenever a detained person displays injuries indicative of ill-treatment or makes allegations of ill-treatment, he or she is promptly seen by a doctor with recognised forensic training.*

53. According to Article 190 § 6 of the Code of Criminal Procedure, as well as Article 2 § 1 of the *Law on the Special Investigation Service*, the SIS, *inter alia*, is vested with the authority to conduct preliminary investigation into crimes that have been committed in complicity or by managing officials of Legislative, Executive and Judicial Power Bodies, persons performing special state service connected with their official positions. Where necessary, the Prosecutor General of the Republic of Armenia may withdraw from investigators of other investigative bodies and transfer these criminal cases to the investigators of the SIS who deal with crimes having been committed in complicity with officials listed in this part or the crimes having been committed by themselves or crimes in relation to which these persons shall be recognised as victims, as well as any other criminal case, where, based on factual circumstances of the latter, there is a need to guarantee comprehensive, full and objective investigation.

54. In practice, the information on injuries detected (whether in police detention facilities or prisons) on newly-arrived detained persons is transferred to the SIS by the body conducting criminal proceedings in respect of the person concerned or the prosecutor conducting the proceedings. Nevertheless, to guarantee that this independent body is given the possibility to promptly investigate into cases of ill-treatment, based on the Instruction of the General Prosecutor issued to the structural divisions of the Prosecutor's Office, the complaints of ill-treatment received by the bodies of preliminary investigation and Prosecutor's Office shall be immediately transferred to the SIS. Similarly, based on the Instruction of the Head of the Police on *Ensuring the Application of Legal Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* it was instructed to report to the administration of the Police on any case of detecting violation of the CPT standards, as well as on any *prima facie* similar complaint and send the relevant materials together with the complaint to the SIS immediately.

55. As to the issue of direct and confidential access to the SIS, the persons alleging ill-treatment have the possibility to directly and unrestrictedly address it. There is a special box for complaints at the Headquarters. Furthermore, complaints can be submitted in person during visiting hours, as well as via post and e-mail which is indicated on the official website of the SIS.

4. Safeguards against ill-treatment

With reference to paragraph 28 of the Report

The Committee reiterated once again its long-standing recommendation that persons deprived of their liberty by the Police be expressly guaranteed the right of access to a doctor (including a doctor of their own choice, it being understood that an examination by such a doctor may be carried out at the detained person's own expense) from the very outset of their deprivation of liberty. The relevant provision should make clear that a request by a detained person to see a doctor should always be granted; it is not for Police officers, nor for any other authority, to filter such requests. Needless to add, persons in Police custody must be informed of the above-mentioned right duly (including in writing) and expeditiously.

56. According to Article 21 of the *Law on Holding Arrested and Detained Persons* and point 13 of Government Decree No. 574-N, following the person's admission to the detention facility if bodily injuries, evident signs of illness are discovered or the person complains of his health condition, the Police officer on duty shall invite medical professional. The invited medical professional shall immediately conduct medical examination. A doctor of the detained person's choice can also take part in it. The medical examination shall be conducted out of the hearing and, if not otherwise requested by the examining doctor, out of the sight of the detention facility's administration. Therefore, based on these regulations, the arrested person is entitled to undergo a medical examination (including by a doctor of his choice) and the Police officers are not authorised to filter such requests.

57. Furthermore, in 2015, for the purposes of increasing the protection of the persons' rights kept at the Police detention facilities, informative posters on the rights of arrested persons including the hotlines of the HRD and the Prison Monitoring Group have been designed and hanged in visible and accessible areas of the Police divisions and detention facilities.

58. As to the question of ensuring the exercise of the right to a doctor from the very outset of deprivation of liberty, the issue will be fully solved, once the draft CCP enters into force.⁴⁰ Pending that, based on the recommendations of the CPT, the Police territorial divisions, *inter alia*, have been instructed⁴¹ to organise the procedure of apprehension in accordance with the CPT standards.

With reference to paragraph 28 of the Report

The Committee reiterated its recommendation that persons in Police custody be entitled to a forensic medical examination without prior authorisation from an investigator, prosecutor or judge.

59. According to the Code of Criminal Procedure the suspect⁴², accused⁴³ and in consent of a suspect or an accused his/her lawyer⁴⁴ have the right to file motions, including the motion to assign a forensic medical examination. Furthermore, Article 15 of the *Law on Holding Arrested and Detained Persons* reads as follows: "an arrested or detained person and, in consent of an arrested or detained person, also his/her lawyer has the right to demand a forensic medical examination". In the light of these provisions, it is obvious that the mentioned persons are entitled to file a motion to assign a forensic medical examination. However, according to the existing legislation, it is within the powers of the investigator⁴⁵ and the inquiry body⁴⁶, during the stage of pre-trial investigation, to resolve the motions submitted by the abovementioned persons.

⁴⁰ Article 110 of the draft CCP reads as follows:

"(...)

2. Prior to acquiring the relevant rights of an Accused, an arrested person shall have the following minimum rights:

1) To be informed about the minimum rights and obligations stipulated by this Article orally from the moment of becoming *de facto* deprived of liberty and in writing at the time of entry into the administrative building of the Inquiry Body or of a body that has the power to conduct the proceedings;

2) To know the reason for depriving him of liberty;

3) To remain silent;

4) To inform a person of his choosing about his whereabouts;

5) To invite an attorney; and

6) To undergo a medical examination if he so demands."

⁴¹ Instruction No. 2/2-1-3589 given by the Chief of Staff of the Police on 21 October 2015

⁴² Article 63 § 2 (12) of the Code of Criminal Procedure

⁴³ Article 65 § 2 (12) of the Code of Criminal Procedure

⁴⁴ Article 73 § 1 (9) of the Code of Criminal Procedure

⁴⁵ Article 55 § 4 (20) of the Code of Criminal Procedure

⁴⁶ Article 57 § 2 (18) of the Code of Criminal Procedure

This means that the existing legislation empowers the investigator and the body of inquiry to reject or to satisfy the motion to assign a forensic medical examination. The same applies for the court in the trial stage.⁴⁷ Hence, the practice is in line with the existing legislation.

60. Turning to the CPT recommendation that persons in Police custody be entitled to a forensic medical examination without prior authorisation from an investigator, prosecutor or judge, the following must be noted. The issue raised will be addressed when the draft CCP enters into force. In particular, the private participants to the proceedings (i.e. arrested person, accused and defence lawyer) will be entitled to receive the opinion of an expert⁴⁸, which in contrast to the existing Code of Criminal Procedure is a type of evidence.⁴⁹

5. Conditions of detention

With reference to paragraph 32 of the Report

The Committee recommended that the shortcomings encountered in respect of access to natural light and ventilation at some of the detention facilities visited be remedied.

61. Access to natural light in the cells of the Police detention facilities is adequate. Moreover, access to artificial lighting is also guaranteed.

62. As to the problem of ventilation in some of the cells at the Yerevan Detention Centre, the deficiencies of the ventilation system have been eliminated, it has been cleaned, and as a result the proper ventilation has been guaranteed. At the same time, it is to be noted that major refurbishment works will be carried out at the Yerevan Detention Centre.

63. Turning to the CPT's remarks that the entire detention area of Dilidjan Police Division was quite cold, the following must be mentioned. Heating system is installed in all the detention facilities of the Police, as a result, the required temperature (+18° C) is ensured. In this context, at the time of the CPT delegation's visit the entire detention area of Dilidjan Police Division was cold, due to temporary technical deficiencies of the heating system.

With reference to paragraph 34 of the Report

The Committee recommended that steps be taken to ensure that all persons held in the Detention Centre of Yerevan City Police Department for more than 24 hours be given the possibility to take at least one hour of outdoor exercise every day.

64. According to point 77 of Government Decree No. 574-N, detained persons are entitled to at least one hour of outdoor exercise. This regulation is mandatory and shall be respected by the administrations of all the detention facilities of the Police. Furthermore, as noted by the CPT in the Report, the detained persons interviewed generally confirmed that they were allowed access to outdoor exercise during one hour every day (two hours for women and juveniles). In this context, the case observed by the CPT delegation during the visit was an exception.⁵⁰ However, to ensure that this minimum right is respected in all the detention facilities and the regulatory guarantees are fully implemented in practice, monitoring has been assigned.

⁴⁷ Article 331 of the Code of Criminal Procedure

⁴⁸ Article 92 of the draft CCP reads as follows:

“The opinion of an expert substantiated written inferences reached by the expert by means of examining the materials provided by a Private Participant in the Proceedings or without such materials by use of special knowledge or skills in a branch of science, technology, arts, crafts, or else, about questions posed to him by a Private Participant in the Proceedings and about other questions pertaining to his authority.”

⁴⁹ Article 86 § 1 (6) of the draft CCP

⁵⁰ The CPT delegation observed at the Detention Centre of Yerevan City Police Department where the detained person interviewed by the delegation had reportedly not been offered outdoor exercise since his arrival two days before.

B. MILITARY DETENTION FACILITIES

With reference to paragraph 36 of the Report

The Committee requested for observations regarding the issue of using the Isolator of the Military Police Headquarters (hereinafter, the Isolator) as a de facto remand prison.

65. According to the Government Decree No. 595-N (N 595-Ն) of 22 May 2008 on *Approving the Internal Regulations of Isolators of the Ministry of Defense of the Republic of Armenia* (hereinafter, Government Decree No. 595-N), the Isolator is used for the detention of military personnel under criminal law. In particular, this includes arrested and detained servicemen who can be held there for up to 3 days and the servicemen serving sentences from 15 days to 3 months.

66. Turning to the CPT's remark on using the facility as a *de facto* prison, the following must be noted. The prolonged detention of the only inmate was of an exceptional nature. The exceptional nature of such a long stay is also proved by the CPT's findings mentioned in the Report according to which *consultation of the relevant records revealed that the Isolator generally accommodated only a few inmates at a time, and that usually the length of stay did not exceed a few days (in rare cases, up to a month)*. Therefore, the regulations of Government Decree No. 595-N are in general implemented and complied with in practice, taking into consideration the isolated nature of the prolonged stay of that particular inmate, as well as the said findings of the CPT.

With reference to paragraph 40 of the Report

The Committee recommended that military staff remanded in custody or serving sentences be provided with some form of out-of-cell activity (e.g. work, sports), as well as with the possibility to listen to the radio and watch television.

67. The servicemen held at the Isolator have access to at least one hour of outdoor exercise in a large and well-equipped yard during which they have a possibility of physical exertion. The servicemen are also provided with the possibility to benefit from the reading materials, as well as listen to the radio. Furthermore, according to point 121 of Government Decree No. 595-N, the servicemen held at the Isolator are involved in the cleaning process of the cells, the yard, as well as in the process of washing up under the supervision of the respective staff. It is to be noted, that it is explicitly prohibited to engage the servicemen in fatigue-duties other than related to their self-service.

68. Turning to the CPT's remarks on the extremely poor offer of the activities, the issue is under the constant attention of the Ministry of Defence and will be addressed over the course of the time.

With reference to paragraph 41 of the Report

The Committee invited the Armenian authorities to consider providing the possibility of a visiting psychiatrist.

69. The servicemen held at the Isolator undergo medical examination on a daily basis (twice a day) by the doctors and feldshers of the divisions of the Military Police. Whenever the person behaves inadequately or complains of health conditions, he/she is immediately transferred to the Military Hospital. Whenever there is a necessity of in-patient treatment, the person is transferred to the Department on Special Cases of the Isolator of the Military Hospital to be provided with the required psychiatric assistance and care. If it is impossible to ensure adequate specialized psychiatric assistance or there is a need of laboratory examinations that cannot be guaranteed at the Department, the serviceman is transferred to the corresponding medical institution with the required expertise.⁵¹

With reference to paragraph 43 of the Report

The Committee requested for information regarding the procedural safeguards applicable to placements in the “kartzet”.

70. At the outset, as noted by the CPT in the Report the punishment cell of the Isolator had reportedly not been used for many years. As to the procedural safeguards applicable to placements in the “kartzet”, they are stipulated by Chapter XIII of Government Decree No. 595-N. In particular, the convict can be transferred to a punishment cell in case of a disciplinary offense. The exhaustive list of the types of disciplinary offenses is provided by Chapter XIII. The decision on placement in the “kartzet”, *inter alia*, provides for the information of the charge, including the nature and the consequences of the offense as well as the right to appeal. The serviceman subject to placement in the punishment cell is required to give explanations on the offence in writing. If he refuses, a protocol is drawn. The copy of the decision is handed over the serviceman in 3 days, the receipt of which is confirmed by the signature of the latter. Furthermore, the right to legal assistance is guaranteed by Government Decree No. 595-N, as the serviceman subjected to a punishment cell, is entitled to visits with an attorney without any restrictions. Moreover, as noted by the CPT the information on the internal regulations and on inmates’ rights was posted on the walls in the detention area and inside the cells.

C. PENITENTIARY ESTABLISHMENTS

1. Preliminary Remarks

With reference to paragraph 46 of the Report

The CPT strongly encouraged the Armenian authorities to implement all the legislative and organisational measures mentioned in paragraph 46 of the Report. The Committee wished to be informed of progress in this area.

71. The information regarding the major legislative measures (in particular, the draft CCP, the draft CC, the draft new Penitentiary Code, the *Law on Probation*) undertaken by the Armenian authorities, *inter alia*, to combat prison overcrowding is presented in the “INTRODUCTION” of this Response. The data in respect of other legislative and organisational measures is provided hereinafter.

72. The issue of overcrowding has always been in the spotlight of the Armenian Government. In this context, the CPT had been informed many times that according to the Armenian legislation the minimum living space provided in penitentiary establishments of the Ministry of Justice of the Republic of Armenia to one remand prisoner or convict shall not be less than 4 m².⁵²

⁵¹ These issues are regulated by the Government Decree No. 806-N (N 806-Ն) 25 July 2013 and a Joint Order of the Minister of Healthcare and Minister of Defense.

⁵²Article 73 of the Penitentiary Code and Article 20 of the Law on Holding the Arrested and Detained Persons of the Republic of Armenia

73. It is to be noted that at present **the overall living space available** at the penitentiary establishments is **sufficient to ensure** that each remand prisoner or convict is provided with the prescribed minimum space of **4 m²**. Taking into account the fact that the distribution of remand prisoners and convicts is carried out in compliance with the legislative requirements for holding remand prisoners and convicts separately, the issue of overcrowding existed until March 2016 exclusively at *Nubarashen Penitentiary Estbalishment* and **concerned remand prisoners only**. Consequently, extensive legal and organisational measures aimed at the elimination of the overcrowding at Nubarashen Penitentiary Estbalishment, as well as improvement of living conditions in all the penitentiary institutions, have been undertaken and implemented, information on the progress of which was of interest to the CPT experts.

a) Another four units of Armavir Penitentiary Establishment have been fully put into operation on 15 December 2015, as a result of which the capacity of this establishment has increased by 800 places, reaching 1,200. It is planned that Armavir Penitentiary Estbalishment will be occupied to its full capacity by the end of 2016.

As of 1 July 2015, 570 persons were accommodated at Armavir Penitentiary Estbalishment.

b) On 16 February 2016, amendments were made to Order No. 30-N (N 30-Ն) of 28 February 2012 of the Minister of Justice of the Republic of Armenia. As a result, the capacity of the detention facility of Armavir Penitentiary Establishment increased by additional **160 places**, reaching **200**. Furthermore, a detention facility with a capacity of **80 places** was established at Hrazdan Penitentiary Establishment **for the first time**.

In the light of the above-mentioned legal and organisational measures aimed at eliminating the overcrowding, the issue of overcrowding existing at Nubarashen Penitentiary Establishment, as well as that of everyday outdoor exercise⁵³ have been completely solved.

74. The figures presented below indicate that the issue of accommodation at Armavir Penitentiary Establishment as well as that of overcrowding at Nubarashen Penitentiary Establishment have been solved due to the transfers among six penitentiary institutions.

| The total number of detained persons and convicts as of 1 January 2015 and of the first seven months of 2016 | | | | | | | | |
|---|--|-----------------------|------------------------|---------------------|---------------------|-------------------|--------------------|--------------------|
| Penitentiary Institution | 1 January 2015 | 1 January 2016 | 1 February 2016 | 1 March 2016 | 1 April 2016 | 1 May 2016 | 1 June 2016 | 1 July 2016 |
| Nubarashen | 1 055 | 942 | 900 | 907 | 859 | 845 | 864 | 868 |
| Kosh | 730 | 595 | 583 | 575 | 569 | 553 | 545 | 521 |
| Vanadzor | 216 | 202 | 208 | 208 | 211 | 193 | 194 | 179 |
| Hrazdan | 242 | 186 | 185 | 162 | 178 | 192 | 179 | 188 |
| Artik | 402 | 378 | 383 | 378 | 387 | 380 | 372 | 368 |
| Armavir | 15 December 2015: 341 | 364 | 423 | 461 | 471 | 540 | 546 | 570 |

⁵³ More detailed information is provided in paragraph 114 of the present document.

75. A number of other measures aimed at improving the living conditions should also be highlighted. In particular:

a) From March 2015, various sanitation and hygiene and anti-epidemiological measures have been regularly undertaken in all the penitentiary establishments. Besides, disinsection measures have been regularly carried out in cafeterias, kitchens and medical units of all the penitentiary establishments for the first time.

In 2016, within the scope of the already renewed contract, disinsection measures, namely **disinfection, parasite extermination and deratization** measures have been carried out in all the penitentiary establishments. From now on, the mentioned measures will also be of a regular nature.

b) The energy efficiency project implemented within the scope of the contracts signed between the Penitentiary Service and the Armenia Renewable Resources and Energy Efficiency Fund has been completed. As a result, the issues related to ensuring lighting, room heating, water isolation of roofs, as well as proper sanitary and hygienic conditions in residential areas of remand prisoners and convicts have been solved in 9 penitentiary establishments.

c) During 2015-2016, numerous and various **construction works** have been carried out in the residential areas, visiting facilities for short-term and long-term visits, medical units, and cafeterias, as well as in the sanitary annexes, within the external secure perimeter and in other important sections of all the penitentiary establishments. In particular:

- **the kitchen has been fully repaired, sanitary annexes, the external sewerage network have been partially repaired at Nubarashen Penitentiary Establishment;**

- the communal kitchen and patient's room of the therapeutic ward of the residential zone, operating theatre of the surgical ward, a number of patient's rooms of the tuberculosis ward have been repaired at the Central Prison Hospital;

- **the external water supply network of Hrazdan Penitentiary Establishment has been fully repaired;**

- **the batteries of the two heating boilers have been fully refurbished at Vanadzor Penitentiary Establishment. Maintenance repair works have been carried out in the accommodations of the residential zone. Renovation works have been carried out in the facilities for long-term visits. The roof of the cafeteria unit has been repaired;**

- **tiling works have been carried out in the kitchen at Kosh Penitentiary Establishment. No. 1 dormitory of the residential zone has been renovated;**

- **repair works have been carried out in the accommodation area for convicts held under open regime, in the quarantine unit, reception room for convicts at Artik Penitentiary Establishment. Partial repair works are underway in the cafeteria unit;**

- **repair works are being carried out in the unit for long-term visits and processing of deliveries, as well as the kitchen at Sevan Penitentiary Establishment;**

- renovation works have been carried out in dormitories of Vardashen Penitentiary Establishment, the sanitary annexes have been repaired.

With reference to paragraph 47 of the Report

The Committee wished to obtain further clarification regarding the following issues:

- *Whether Nubarashen Penitentiary Establishment would eventually be closed down or it would continue to operate as a facility for remand prisoners from the Yerevan area;*
- *Whether the planned transfer of life-sentenced prisoners to Armavir Penitentiary Establishment would also include the lifers currently accommodated at Yerevan-Kentron Penitentiary Establishment.*

76. In this regard (as well as with regard to the remarks set forth in paragraphs 63 and 65 of the Report), it is to be noted that the strategy programmes on the development of penitentiary system provide for construction of a new penitentiary establishment instead of Nubarashen Penitentiary Establishment, which will become possible in case of relevant financial assistance.

77. As for transferring the persons deprived of liberty to Armavir Penitentiary Establishment, from now on the process will also be of regular nature until the institution is occupied – among others, by life-sentenced prisoners - to its full capacity.

With reference to paragraph 48 of the Report

The Committee called upon the Armenian authorities to take decisive steps to develop the programmes of activities for both sentenced and remand prisoners.

78. Information on measures taken to **ensure the availability of purposeful activities** for both sentenced and remand prisoners, as well as further plans thereof are presented under paragraphs 95 and 129-131 of the Response.

With reference to paragraph 49 of the Report

The CPT called upon the Armenian authorities to take resolute steps to address the phenomena of differences in conditions (mainly, in the state of repair and equipment, but also as regards occupancy levels) between different cells, as well as of relying on inmates and their families to provide basic necessities.

79. As for the differences in conditions between the cells, Armenian legislation, more specifically Government Decree No. 1543-N (N 1543-Ն) of 3 August 2006 (hereinafter, Government Decree N 1543-N)⁵⁴, does not prohibit the remand prisoners and convicts to improve or furnish their living cells and accommodations with any means not prohibited by the legislation (namely, by furnishing their living cells with household items, equipment and furniture). To this end, the differences between the cells are mostly preconditioned by the fact that the convicts kept therein improved and furnished their cells at their desire and with their own means not prohibited by law.

80. Furthermore, the Senior Management of the Penitentiary Service always have their attention focused on the renovation works of the residential areas and cells, and each year residential cells and accommodations, sanitary annexes, cafeterias, visiting facilities and other facilities for persons held in confinement are planned and renovated to the extent possible. In this context, **in total 67** cells and residential accommodations were repaired during 2015-2016 alone.

81. Besides, it is noteworthy that the initiatives of the Penitentiary Service on repairing **all the cells** that are in improper condition have been included in the prospective development programmes for the penitentiary system, which will become possible in case of relevant financial assistance.

⁵⁴ Government Decree No. 1543-N (N 1543-Ն) of 3 August 2006 on Approving the Internal Regulations of Detention Facilities and Correctional Institutions of the Penitentiary Service

82. The issues existing previously with regard to the occupancy levels in cells are no longer present in terms of overcrowding, and have been presented in detail hereinabove, under paragraphs 71-74. It is to be noted that the distribution of remand prisoners and convicts is carried out in compliance with the legislative requirements for holding remand prisoners and convicts separately, taking into account considerations of cohabitation and safety of remand prisoners and convicts. Therefore, the difference in the number of persons in certain cells is reasoned and justified within the scope of the mentioned legislative requirements.

83. Finally, turning to the issue of relying on inmates and their families to provide basic necessities (such as, food, bedding and hygiene items), Government Decree No. 1182-N (N 1182-Ն) of 15 October 2015⁵⁵ provides for the minimum daily portions of food, as well as the minimum quantity of clothing, bedding and hygiene items to be provided to the persons held at the penitentiary establishments. In this context, in the course of 2014-2016 no complaints have been received regarding the provision of basic necessities. Furthermore, according to domestic legislation the persons held at penitentiary establishments are entitled to receive parcels, deliveries and packages.

With reference to paragraph 50 of the Report

The CPT called upon the Armenian authorities to step up their efforts to combat corruption in the prison system. Tackling it would also require a substantial increase in salaries (especially junior) custodial staff.

84. The specific concerns raised by the CPT with regard to the corrupt practices existing in the prison system are not relevant. Moreover, combating corruption has and is under the constant spotlight of the Armenian authorities. In this context, extensive measures have been undertaken by the Penitentiary Service in that direction.

a) For the purpose of ensuring proper supervision over the activities of officers, since March 2015 a procedure for receiving citizens has been established, for the first time, by the Order of the Head of the Penitentiary Service. On the last Friday of each month citizens, who requested reception, discuss the issues of concern for them directly with the Head of the Penitentiary Service and - by the instruction of the latter - with other officers. Since the day of establishment of the mentioned procedure, **90** citizens have been received and the problems and issues raised by them have been solved respectively.

b) With a view to ensuring direct contact between the wider public and the Penitentiary Service, as well as the transparency of the activities of the Penitentiary Service, the official website of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia (www.ced.am) was launched on 14 October 2014, which already has over **30,000** permanent users and over **150,000** visitors.

c) **A voice information portal** of the Penitentiary Service has been launched since 2014 and is aimed at informing the public about the legal regulations with regard to deliveries provided to remand prisoners and convicts, visits with them (short-term and long-term), rights and legislative restrictions, as well as other useful information.

⁵⁵ Government Decree No. 1182-N (N 1182-Ն) of 15 October 2015 on Approving the Minimum Daily Food Portions, Quantity of Clothing, Bedding and Hygiene Items of the Persons held at the Penitentiary Institutions and Time Limits for the Use thereof. According to this Decree, the Government Decree No. 413-N (N 413-Ն) of 10 April 2003 was abolished.

- d) Since October 2014 the Penitentiary Service has launched "**Hot Line**" fast response service for the purpose of quickly and promptly responding to reports on illegitimate administrative actions. As a result, since the moment of its establishment, **1,145** reports have been received through "Hot Line" service, all of which have been examined under the direct supervision of the Head of the Penitentiary Service.
- e) The number of official investigations has drastically increased (threefold) as a result of the realisation of the policy of strengthening the control over proper compliance with legislative requirements. As a result, the personnel of the Internal Security Division of the Penitentiary Service have increased nearly threefold.
- f) Based on the considerations of preventing possible corrupt practices, strengthening the control over proper compliance with legislative requirements, as well as paying unscheduled inspection visits, the procedures for and conditions of paying inspection visits to structural subdivisions of the Central Body of the Penitentiary Department and to penitentiary establishments, summarising of the results and archiving of the materials have been prescribed by Order of the Head of the Penitentiary Service No. 143-L (N 143-L) of 8 June 2015.
- g) Upon the initiative of the Penitentiary Service, Government Decree No. 1543-N was supplemented. The ultimate objective was to facilitate the procedure for the relatives of remand prisoners and convicts to bring parcels, deliveries and packages to them, to prevent cases of intrusion of prohibited items, as well as to reduce corruption risks in the sector by organising the process through **ONLINE** order. The services of the online shop have already been introduced at Armavir and Artik Penitentiary Establishments. It is also noteworthy that citizens residing abroad may also use the services of the online shop. The Penitentiary Service is currently working on making the regulations with regard to the online shop available on the official website in different languages.
- h) On 18 June 2015 another amendment⁵⁶ was made to Government Decree No. 1543-N. As a result the legal ban on purchasing permitted goods from stores or kiosks other than those located at the detention facilities or correctional institutions was lifted. Due to the mentioned legislative amendment, the process of purchasing items (goods) not prohibited by the legislation by remand prisoners and convicts, as well as relatives thereof **has been facilitated**, at the same time **reducing corruption risks**.
- i) A precise regulation was prescribed by Order No. 144-L (N 144-L) of 8 June 2015 of the Head of the Penitentiary Service for seizure, documenting and retention of prohibited items discovered during searches at penitentiary establishments, as well as for ensuring the process of declaring the property that does not have an owner as ownerless for the benefit of the State.
- j) For the purpose of excluding the arbitrary treatment of requests of citizens by the administrations of penitentiary establishment, the Head of the Penitentiary Service has issued Instruction No. E40/7-4042 (N E40/7-4042) on 29 September 2015. The latter regulates, in cases of legal prohibitions, legal relations pertaining to documenting, the requests for accepting parcels, deliveries and packages addressed to remand prisoners and convicts as prescribed by the Armenian legislation⁵⁷, at the same time defining sample forms for rejection decisions to ensure uniform administrative action.

⁵⁶ Amendments were introduced by Government Decree No. 646-N (N 646-Ն) of 18 June 2015 of the Republic of Armenia.

⁵⁷ The Republic of Armenia Law on Fundamentals of Administrative Action and Administrative Proceedings

k) In February 2015 an Organisational-Analytical and International Cooperation Division was established in the Penitentiary Service with the ultimate objective to combat corruption and to increase the transparency and efficiency of penitentiary activities. As a result of analytical activities carried out by the Division during about a year and a half, the areas of the Penitentiary Service activities not regulated by law have been revealed and a number of target areas have been regulated by around **50** orders and instructions of the Head of the Penitentiary Service.

85. As for the phenomenon, mentioned by the CPT experts, of illegal transfers to health-care units of the penitentiary establishments or to the Central Prison Hospital “to rest” without displaying any health issues, it should be stated that the statements are not specifically addressed to anyone, thus, it is impossible to examine them as prescribed by law.

86. However, the Penitentiary Service finds it appropriate to submit analytical information on the number of persons accommodated at the Central Prison Hospital during the course of the last two years, which is eloquent more than enough to refute the allegations heard by the CPT in respect of the mentioned illegal phenomena.

87. About 253 patients were accommodated at the Central Prison Hospital at the end of 2014, 132 - in the first half of 2015, 153 - in the second half of 2015, 140 - in the first half of 2016.

88. The analysis of these figures shows that during a year and a half alone the number of persons held at the Prison Hospital **reduced by 115**. Among current **140** patients 35 are contagious patients (TB, HIV), 23 are under treatment at the psychiatric ward, 19 are under treatment for grave illnesses, 12 are convicts working at the maintenance department, and 51 are patients of the surgical ward.

89. In the light of the above-mentioned, it becomes obvious that the stay of patients at the Central Prison Hospital is reasoned and objective in all the mentioned cases.

Ill-treatment and inter-prisoner violence

With reference to paragraph 52 of the Report

The CPT recommended ensuring that all instances of resort to “special means” vis-à-vis prisoners are adequately recorded in a dedicated journal/register.

90. To implement the recommendations set forth in paragraph 52 of the Report, the Head of the Penitentiary Service issued Order No. 99-L (No. 99-L) on 2 August 2016. Precise regulations have been prescribed on recording - in registers approved by the order - the cases resorting to physical force and special means against persons held in confinement, as well as on attaching the prepared supporting documents to their personal files.

With reference to paragraph 54 of the Report

The CPT called upon the Armenian authorities to step up their efforts to combat inter-prisoner violence and intimidation. 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.

Resolute steps must be taken to put an end to the reliance on the informal prison hierarchy to maintain good order in prison establishments. No prisoner should be put in a position to exercise power over other prisoners.

91. The imperatives of promptly discovering the cases of unofficial hierarchy among persons kept in confinement in penitentiary institutions, identifying the persons demonstrating such behaviour, carrying out appropriate activities with them, as well as creating a healthy moral and psychological atmosphere are on a daily basis in the spotlight of the Management of the Penitentiary Service.

92. In all cases when persons try to intentionally violate the requirements of the internal regulations of penitentiary institutions, try to establish hierarchy among convicts, as well as wish to circumvent the legitimate demands of penitentiary officers in any way, various legitimate means - ranging from subjecting to disciplinary liability to sending to penitentiary institutions with a higher level of security - are unavoidably applied. For example, during 2015-2016 "transfer to punishment cell" disciplinary penalty has been imposed 1,649 times on persons attempting to establish hierarchical positions among convicts, as well as on those ignoring legitimate demands of the penitentiary officers.

93. The Penitentiary Service is in complete control of the operational situation at penitentiary institutions and - if necessary - undertakes respective actions to prevent cases of unofficial hierarchy.

2. Prisoners sentenced to life imprisonment

With reference to paragraph 56 of the Report

The CPT wished to receive confirmation that the transfer of lifers to Armavir Prison has now taken place and no life-sentenced prisoner remains at Nubarashen Prison.

94. In respect of the remark that the windows in the cells of life-sentenced prisoners are fitted with two layers of metal grids, it is to be noted that it is preconditioned exclusively by security considerations.

95. As to the offer of out-of-cell activities other than outdoor exercise, apart from the steps undertaken by the Armenian authorities and presented in paragraphs 129-131 of the present document, the prospects of ensuring purposeful activities for lifers and the rest of the sentenced prisoner population are provided for by the draft *Strategic Programme for Legal and Judicial Reforms in the Republic of Armenia for 2017-2020*.

96. With reference to transferring all life-sentenced prisoners to Armavir Penitentiary Establishment, as it has been noted, the process of transferring convicts is of a continuous nature, which depends on a number of circumstances, such as the compatibility of persons. However, the Penitentiary Service will - in parallel with complementing the staff of Armavir Penitentiary Establishment - undertake all the measures aimed at transferring all the life-sentenced prisoners from Nubarashen to Armavir Penitentiary Establishment.

With reference to paragraph 57 of the Report

The CPT wished to receive more detailed information on the treatment currently provided to prisoner A. and on the outcome of the further examination mentioned in paragraph 57 of the Report. The Committee would also like to receive a copy of the formal psychiatric report drawn up after the aforementioned one-month assessment period.

97. All the necessary information and materials have been submitted to the CPT.⁵⁸

With reference to paragraph 58 of the Report

The CPT wished to know whether the planned transfer of life-sentenced prisoners to Armavir Prison concerns also the lifers held at Yerevan-Kentron Prison. Were it not to be the case, urgent steps would be required to address the shortcomings as regards material conditions and out-of cell activities.

98. As mentioned, the process of transferring imprisoned persons to Armavir Penitentiary Establishment will be of regular nature until the institution is occupied - among others, by life-sentenced prisoners - to its full capacity.

With reference to paragraph 59 of the Report

The CPT called upon the Armenian authorities to ensure that life-sentenced prisoners at Armavir Prison are offered a range of purposeful out-of-cell activities (such as work, education, sports, and recreational activities).

⁵⁸ See Annex 1

Being aware of the intention of the drafters of the new Penitentiary Code to avoid the segregation of life-sentenced prisoners, the Committee strongly encouraged the authorities to implement the new approach as soon as possible.

99. Information on measures taken to **ensure the availability of purposeful activities** for both sentenced and remand prisoners, as well as further plans thereof is presented under paragraphs 95 and 129-131 of the Response.

100. At present the requirement to keep life-sentenced prisoners separate from the rest of the sentenced prisoner population is prescribed by the national legislation.⁵⁹ The mentioned legislative restriction will be lifted following the adoption of the new Penitentiary Code, as rightly noted in the CPT Report. As it has been mentioned above the text of the Concept Paper of the new Penitentiary Code has been approved and the new Code is currently being drafted.

With reference to paragraph 60 of the Report

The Committee wished to be informed whether an investigation into the death of prisoner B. had been opened and whether an autopsy of his body had been carried out.

The CPT wished to receive, in due course, full and detailed information about the outcome of the above-mentioned investigation, as well as a copy of the autopsy report.

101. All the necessary information and materials have been submitted to the CPT⁶⁰.

With reference to paragraph 61 of the Report

A number of life-sentenced prisoners had been transferred from closed to semi-closed regime. The Committee welcomed the development and wished to receive an update on the number of inmates concerned, in due course.

102. In this regard, **12** out of **98** life-sentenced prisoners held at penitentiary establishments of the Republic of Armenia serve their punishment at a semi-closed regime.⁶¹ They have been transferred from closed to semi-closed regime during 2014-2016 (3 convicts in 2014, 8 in 2015, 1 in 2016). Therefore, a new practice is gradually being developed in the Penitentiary Service in terms of applying the privileges prescribed for life-sentenced prisoners by domestic legislation.

103. That said, as mentioned hereinabove, at present the requirement to keep life-sentenced prisoners separate from the rest of the sentenced prisoner population is prescribed by the national legislation.⁶² The mentioned legislative restriction will be lifted following the adoption of the new Penitentiary Code, as rightly noted in the CPT Report. As it has been mentioned above, the text of the Concept Paper of the new Penitentiary Code has been approved and the new Code is currently being drafted.

With reference to paragraph 62 of the Report

The Committee called upon the Armenian authorities to ensure that life-sentenced prisoners benefit from the same visit entitlement as other sentenced prisoners and are, as a rule, allowed to receive short-term visits under open conditions (and that visits through a partition are only imposed on the basis of an individual risk assessment).

⁵⁹ Pursuant to Article 68 § 1 (8) of the Penitentiary Code, life-sentenced prisoners shall be held separately from the rest of the sentenced prisoner population.

⁶⁰ See Annex 2

⁶¹ According to Article 106 of the Penitentiary Code of the Republic of Armenia, in a closed correctional institution a convict shall be confined in an isolated cell provided for up to four persons. Upon a substantiated decision of the head of the institution, a convict may be confined in a cell alone.

Pursuant to Article 105 of the same Code, in a semi-closed correctional institution a convict shall be confined in an isolated cell provided for up to six persons. Pursuant to Article 108 § 2 of the Code, in a closed correctional institution, a convict sentenced to life imprisonment shall have the right to one hour of outdoor exercise per day, and a convict serving punishment at a semi-closed correctional institution - at least three hours of outdoor exercise per day (pursuant to Article 105 § 2).

⁶² Pursuant to Article 68 § 1 (8) of the Penitentiary Code, life-sentenced prisoners shall be held separately from the rest of the sentenced prisoner population.

104. With regard to the remark set forth in paragraph 62 of the Report, the CPT experts rightly cited the clarifications of the Minister of Justice in respect of the legislative initiative on doubling the visiting entitlement for life-sentenced prisoners after 10 years of sentence.⁶³

105. As to the CPT's recommendation to ensure that life-sentenced prisoners benefit from the same visit entitlement as other sentenced prisoners, **it will be further considered in the scope of drafting process of the new Penitentiary Code.**

106. Turning to the recommendation on allowing the life-sentenced prisoners receiving short-term visits under open conditions, the Penitentiary Service assures that there is no difference in the mentioned process, unless preconditioned by objective individual risk assessment. The visits are organised in the same way (without partitions) for all the convicts, including life-sentenced prisoners.

4. Conditions of detention of the general prison population

a. Material conditions

i. *Follow-up visit to Nubarashen Prison*

With reference to paragraphs 63, 64 and 65 of the Report

The Committee expressed the view that the structure and the present condition of Nubarashen Prison are so inadequate that they warrant a serious reflection as to the future of the establishment and the advisability of any further investment. In any case, were a decision to be taken to continue operating Nubarashen Prison on its current premises, a massive and comprehensive refurbishment would be indispensable, covering issues such as access to natural light, artificial lighting, ventilation, full partition of sanitary annexes, water supply, state of communal bathrooms/showers, repainting, disinfections, hygiene in the cells and the kitchen. The Committee called upon the Armenian authorities to urgently reflect upon these issues and, if a decision is made to continue operating Nubarashen Prison, take the above-mentioned steps without further delay.

Pending that, the Committee recommended that an immediate stop must be made to using the cells (especially Cell "00") on the ground level (which are the most dilapidated and dirty) as prisoner accommodation. Continued efforts should also be made to further decrease occupancy levels, so as to offer a minimum of 4 m² of living space per prisoner in multi-occupancy cells. Further, steps should be taken to increase access to a shower (to at least twice a week) and to improve the outdoor exercise facilities, in order to allow prisoners to physically exert themselves.

107. With regard to the remarks set forth in paragraphs 63, 64 and 65 of the Report the following must be mentioned.

108. As to the future of Nubarashen Penitentiary Establishment, it has been mentioned that the strategy programmes on the development of penitentiary system provide for construction of a new penitentiary establishment instead of Nubarashen Penitentiary Establishment, which will become possible in case of relevant financial assistance.

109. Turning to the issue of overcrowding at Nubarashen Penitentiary Establishment, in the light of comprehensive legislative and organisational measures undertaken and reflected in paragraphs 60-63 of the Response, currently there is no overcrowding, in terms of the living area, at the penitentiary institutions of the Republic of Armenia, including Nubarashen Penitentiary Establishment. Therefore, the remark made by the CPT on the presence of 14 and more persons in one cell is currently not relevant.

⁶³ At present, the legislative amendments are pending before the National Assembly.

110. As of October 2015 (at the time of the visit of the CPT experts), as well as at present, each person accommodated at Nubarashen Penitentiary Establishment is provided with a separate bed, about which the CPT experts were informed in writing back in December 2015 and January 2016.

111. As noted in paragraph 75 of the Response:

- From March 2015, various sanitation and hygiene and anti-epidemiological measures have been regularly undertaken in all the penitentiary establishments. Besides, disinsection measures have been regularly carried out in cafeterias, kitchens and medical units of all the penitentiary establishments for the first time.

- In 2016, within the scope of the already renewed contract, disinsection measures, namely **disinfection, parasite extermination and deratization** measures have been carried out in all the penitentiary establishments. From now on, the mentioned measures will also be of regular nature.

- The energy efficiency project implemented within the scope of the contracts signed between the Penitentiary Service and the Armenia Renewable Resources and Energy Efficiency Fund has been completed. As a result, the issues related to ensuring lighting, room heating, water isolation of roofs, as well as proper sanitary and hygienic conditions in residential areas of detained persons and convicts have been solved in 9 (including Nubarashen) penitentiary establishments.

- During 2015-2016, numerous and various construction works have been carried out in the residential areas, visiting facilities for short-term and long-term visits, medical units, and cafeterias, as well as in the sanitary annexes, within the external secure perimeter and in other important sections of all the penitentiary establishments. In particular, the kitchen has been fully repaired, sanitary annexes, the external sewerage network have been partially repaired at **Nubarashen Penitentiary Establishment**;

112. Until the issue of 24-hour water supply in the mentioned district of Yerevan will be solved, the Penitentiary Service has already acquired additional water storage containers, as a result of which the issue of providing the remand prisoners and convicts with the necessary amount of water has already been solved.

113. Besides, as a result of the savings policy implemented by the Penitentiary Service, a decision has been made to provide - by allocating the saved funds - the remand prisoners and convicts with an access to shower twice a week.

114. Turning to the issue of every day outdoor exercise, following the CPT delegation's visit in October 2015, appropriate steps have been already undertaken and some improvements were already noticeable back at the end of 2015. More specifically on 23 November 2015 the Head of the Penitentiary Service instructed the Head of Nubarashen Penitentiary Establishment to undertake necessary actions to guarantee that all inmates are offered every day outdoor exercise (including during week-end).⁶⁴

⁶⁴ Order No. 40/70.1-4859

The order has been properly implemented. In addition, further organisational and legislative measures (mentioned in detail in paragraphs 71-74 of the Response) have been undertaken to fully address the problem. In particular, Armavir Penitentiary Establishment was put into full operation, the issue of overcrowding was solved at Nubarashen Penitentiary Establishment and adequate proportionality between the number of staff positions and that of persons held in confinement was ensured. Furthermore, the issue of every day outdoor exercise was under daily supervision of the senior officials of the Penitentiary Service. In the light of the mentioned, all the remand prisoners and convicts currently accommodated at the penitentiary institutions of the Republic of Armenia - including at Nubarashen Penitentiary Establishment - are provided with an access to daily outdoor exercise as prescribed by the penitentiary legislation (**such a problem existed exclusively at Nubarashen Penitentiary Institution till the end of 2015**).⁶⁵

115. As for the recommendation on making an immediate stop to using the cells (especially Cell “00”) located on the ground level of Nubarashen Penitentiary Establishment as prisoner accommodation, the issue of stopping the further use of the mentioned cells will become possible through building a new penitentiary institution instead of Nubarashen Penitentiary Establishment.

116. However, the Penitentiary Service has undertaken relevant measures, as a result of which the use of Cell “00” located on the ground level of Nubarashen Penitentiary Establishment **has completely been stopped**.

ii. *Follow-up visit to Yerevan-Kentron Prison*

With reference to paragraphs 67, 68 and 69 of the Report

The Committee reiterated its recommendations that steps be taken at Yerevan-Kentron Prison to:

- *review occupancy levels in the cells to ensure that prisoners are provided with a minimum of 4 m² of living space in multi-occupancy cells (any space taken up by in-cell sanitary facilities should not be included in this calculation);*
- *ensure that cells of 7 m² do not accommodate more than one prisoner;*
- *improve access to fresh air in all the cells;*
- *equip outdoor exercise areas with better shelters against inclement weather and some basic sports equipment.*

117. With regard to the remarks concerning the material conditions of Yerevan-Kentron Penitentiary Establishment, the following must be mentioned. There is no issue of overcrowding at Yerevan-Kentron Penitentiary Establishment in terms of the living area prescribed by the legislation, as well as in terms of bed capacity. All the cells are in a satisfactory condition, and there are no dilapidated cells. Although there is no central ventilation system, daily ventilation is duly provided by opening the windows of the cells. As for ensuring proper ventilation in the cells, it will become possible after structural modifications in case of relevant financial assistance.

118. Renovation works carried out at Yerevan-Kentron Penitentiary Establishment, as a result of which wooden covers on the floors of all the cells have been removed, water supply and sewerage systems have been repaired, the kitchen and visiting facilities have been fully repaired, should also be mentioned.

⁶⁵ The CPT was informed about the initial measures undertaken in January 2016. Information regarding the further steps with the confirmation that every inmate held at Nubarashen is offered every day outdoor exercise was submitted in April 2016.

119. Turning to the statement that the “quarantine” cell of Yerevan-Kentron Penitentiary Establishment measuring 7m² was accommodating two convicts allegedly held there for 1 and 3 months respectively, does not correspond to reality. Pursuant to the penitentiary legislation⁶⁶, remand prisoners or convicts (including those transferred on transit) shall be placed in “quarantine” cells exclusively for a period of up to seven days at most. Remand prisoners and convicts are placed in a “quarantine” unit exclusively for the purposes of medical examination and adaptation to (familiarisation with) the conditions of the correctional institution or detention facility. Furthermore, cells measuring 7 m² shall not accommodate more than one person.

120. As to the recommendation to equip outdoor exercise areas with better shelters against inclement weather and some basic sports equipment, at the expense of the savings of the Penitentiary Service, Yerevan-Kentron Penitentiary Establishment will be provided with proper means against inclement weather.

iii. *Armavir Prison*

With reference to paragraph 71 of the Report

The CPT called upon the Armenian authorities to address the deficiencies mentioned in paragraph 71 as a matter of urgency. Steps should also be taken to prevent similar problems from occurring in the two remaining detention blocks (unless this has already been done). Further, the Committee recommended that all the cells be equipped with a call system and that the supply of hot water be ensured at least twice a week.

121. All the cells, sanitary annexes and the kitchen at Armavir Penitentiary Establishment are provided with proper ventilation (natural ventilation). The storage facilities are fully provided with ventilation systems as well. In particular, the new ventilation systems in the storage facilities measuring approximately 200 m² designated for storing food supplies for persons held in confinement are in full operation as of 19 February 2016. Furthermore, all the deficiencies, set forth in the Report, related to wear-and-tear at the Establishment, have been eliminated.

122. Turning specifically to the sanitary annexes, according to the design and estimate documents, the sanitary annexes at I and II blocks of Armavir Penitentiary Establishment were not isolated in the cells. As a result, waterisolation of walls or ceramic tiling was not intended. Despite this, the above mentioned works have been completely carried out both at the old and newly-opened units.

123. With reference to the CPT recommendation that all the cells be equipped with a call system and that the supply of hot water be ensured at least twice a week, all the cells of Armavir Penitentiary Establishment will be equipped with call bell devices at the expense of the savings of the Penitentiary Service. As for the hot water supply, all the cells at Armavir Penitentiary Establishment are currently provided with access to hot water at least twice a week.

With reference to paragraph 72 of the Report

The CPT invited the Armenian authorities to reflect upon ways to address the problem mentioned in paragraph 72 of the Report, e.g. by doubling the size of at least some of the yards or using them on a cell-by-cell basis only.

⁶⁶Article 65 of the Penitentiary Code and Article 29 of the Law on Holding Arrested and Detained Persons

124. Based on the recommendations made by the CPT in the Report and considering the specific territorial features of the outdoor exercise yards in III, IV, V and VI blocks of Armavir Penitentiary Establishment, the process of properly organising every day outdoor exercise for persons held at Armavir Penitentiary Establishment was regulated by Order No. 67-L (No. 67-Ն) of 27 April 2016 of the Head of the Penitentiary Service. In particular, the Head of the Penitentiary Institution was instructed to organise the everyday outdoor exercise for convicts and remand prisoners held at Armavir Penitentiary Establishment on a cell-by-cell or group-by-group basis, without restricting their possibilities to walk freely or physically exert, in any case taking into account safety considerations.

iv. *Vanadzor Prison*

With reference to paragraph 73 of the Report

The Committee recommended that steps be taken to ensure that none of the cells accommodate more than four inmates; the extra beds should be removed at the earliest opportunity. Further, the CPT recommended that thorough refurbishment work be carried out at Vanadzor Prison, starting with the toilets, the showers and the kitchen (especially the roof).

The Committee recommended increasing the entitlement to take a shower to at least twice a week.

125. With regard to the remark made by the CPT in respect of the cramped conditions offered at many cells, the Armenian authorities once again assure that at present, there is no overcrowding in any of the penitentiary institutions, including Vanadzor Penitentiary Establishment.⁶⁷ In addition, exclusively 4 inmates are accommodated in each cell of Vanadzor Penitentiary Establishment and the extra beds have been removed.

126. **The batteries of the two heating boilers have been fully refurbished at Vanadzor Penitentiary Establishment. Maintenance repair works have been carried out in the accommodations of the residential zone. Renovation works have been carried out in the facilities for long-term visits. The roof of the cafeteria unit has been repaired,** the showers and the kitchen have been fully repaired; the repair works of the sanitary annexes are underway.

127. Turning to the recommendation to increase the entitlement to take a shower to at least twice a week, as it has been mentioned above, as a result of the savings policy implemented by the Penitentiary Service, a decision has been made to provide – by allocating the saved funds – the remand prisoners and convicts with an access to shower twice a week.

With reference to paragraph 74 of the Report

The Committee recommended that the exercise yards of the Vanadzor Penitentiary Institution be enlarged.

128. A separate unit is planned to be built for convicts serving their punishment at Vanadzor Penitentiary Establishment under closed and semi-closed regimes, in case relevant financial means become available. Consequently, the current unit will serve effectively to accommodate convicts serving their punishment under semi-open regime, and the latter will have the possibility to freely move within the territory of the correctional institution. As a result of the mentioned measures, the issue of having proper exercise yards may be completely solved.

b. *Activities*

With reference to paragraph 75 of the Report

The Committee called upon the Armenian authorities to take decisive steps to develop the programmes of activities for both sentenced and remand prisoners.

The Committee also wished to receive confirmation that the football pitch at Armavir Prison is now available to inmates.

⁶⁷ The legal and organisational measures aimed at elimination of overcrowding have been presented in detail in paragraphs 71-74 of the Response.

129. The prospects of ensuring availability of purposeful activities for all inmates (including life-sentenced prisoners) are provided for by the draft *Strategic Programme for Legal and Judicial Reforms in the Republic of Armenia for 2017-2020*.

130. Pending that, it is to be noted that multi-faceted measures are being undertaken to ensure that both sentenced and remand prisoners are provided with programmes of activities. Thus, without addressing the mentioned prospective programme, the following must be noted:

a) Sporting events, such as chess, draughts, tennis, domino and football tournaments have been regularly organized in the course of 2015 and 2016;

b) Several events have been organised in collaboration with *Special Creative Centre for Juvenile Offenders* SNCO, the *National Cinema Centre of the Republic of Armenia*, *Taganka Ensemble* and other organisations;

c) For the purpose of meeting the spiritual needs of detained persons and convicts, *the Armenian Apostolic Church* has paid regular visits, performed baptism services, offered Masses, as well as held celebrations on holidays;

d) Cultural events such as concerts, theatrical performances, film screenings and other events have also been regularly organised for remand prisoners and convicts at penitentiary institutions and detention facilities. Overall, **371** events (196 in 2015, 175 in 2016) have been organised at 12 penitentiary institutions in the course of 2015 and 2016 (comparisons are made for the period of 6 months of 2016), in which **11,028** (6,557 in 2015, 4,471 in 2016) remand prisoners and convicts have participated;

e) For the purpose of ensuring occupation of convicts, undertaking relevant and efficient measures for their social rehabilitation, as well as jointly with *Support to Prisoners Foundation*, **944** convicts have been engaged in various **activities** between 2015 and 2016 (513 in 2015, 431 in 2016);

f) **489** persons have been engaged in **recreational unions** (278 in 2015, 211 in 2016);

g) As a result of the collaboration with *Special Creative Centre for Junior Offenders* SNCO, *Support to Prisoners Foundation* and the Ministry of Education and Science of the Republic of Armenia, the right to education - general education, vocational, *i.e.* technical education, as well as higher and post-graduate education - of **246** convicts has been realised between 2015 and 2016 at Abovyan, Sevan, Kosh, Artik, Vanadzor and Armavir Penitentiary Establishments. **121** in **2015**, of which:

- general education - 71;
- vocational, *i.e.* technical education - 44;
- higher and post-graduate education - 6;

125 during first half of 2016, of which:

- general education - 45;
- vocational, *i.e.* technical education - 75;
- higher and post-graduate education - 5;

h) In 2015, upon the initiative of the Penitentiary Service, comprehensive measures were undertaken to solve a problem that had been insoluble for a long time. The objective of those measures was to ensure full participation of persons held in confinement in civil law transactions. Within the framework of this initiative, jointly with the Police of the Republic of Armenia, around **400** convicts and remand prisoners have received **identification cards** (passports) between 2015 and 2016. As a result, between 2015 and 2016, around **300** persons held in confinement at penitentiary institutions have benefited from the state social security programmes and have fallen under the relevant **disability** categories, registering in the list of persons enjoying state benefits, and **150** persons have become entitled to a **pension**.

Due to the absence of an identification document, the mentioned **450 (approximately)** citizens have been deprived of the opportunity to exercise their rights to benefit from social security programmes. The process is ongoing, and relevant measures are being undertaken based on each application for receiving an identification document.

i) Starting from the second half of 2015, the Penitentiary Service has been actively collaborating with the Chamber of Advocates of the Republic of Armenia and the Helsinki Committee of Armenia, within the framework of which the advocates and lawyers of the above-mentioned organisations have, on a voluntary basis, paid visits to **Armavir, Abovyan, Kosh, Sevan, Goris, Nubarashen** and **Vardashen** Penitentiary Establishments, providing *pro bono* legal consulting;

j) In 2012, the State Employment Agency of the Ministry of Labour and Social Affairs of the Republic of Armenia, the Penitentiary Department of the Ministry of Justice of the Republic of Armenia and *Social Justice* NGO signed a *Memorandum on Co-operation and Mutual Assistance* for a term of 5 years, attaching importance to the issues of crime prevention and, in that context, the reintegration of persons returning to the society from places of imprisonment. Within the scope of the agreement, the parties have agreed to co-operate in the following directions:

- providing consulting for professional orientation and information on state guarantees of employment prescribed by legislation and job opportunities to convicts held in penitentiary institutions, registered in the subdivisions for execution of alternative punishments and serving their punishment;
- referring persons released from punishment to the relevant subdivisions of the Agency;
- organising joint conferences and meetings with the participation of the organisations and state bodies concerned;
- regularly providing information on the labour market;

k) A business plan has been drawn up and presented jointly with *the Support to Prisoners Foundation*. The business plan envisages the organising of activities in the field of livestock breeding, land cultivation and horticulture at Abovyan Penitentiary Establishment in 2016, providing at least **30** job positions for convicts;

l) Jointly with *Civil Society Institute* NGO it is envisaged to organise hairdressing courses at Abovyan Penitentiary Establishment. The convicts completing the course will get diplomas. It is planned to engage in these courses - on a step-by-step basis - all female convicts having expressed the desire to participate in them. Taking into account that the CPT specifically emphasised the lack of programmes of activities for convicts at Armavir Penitentiary Establishment, the following is to be noted in respect of Armavir Penitentiary Establishment alone:

- A **sewing shop** has been established, and **5** convicts are employed there.
- A **shoe manufacturing shop** has been established, and **7** convicts are employed there.
- The Penitentiary Institution is also furnished with a computer lab, rooms for educational and vocational activities, as well as for creative works, engaging **102** convicts.
- Sporting events have also been organised on a regular basis. In particular, football and chess tournaments have been organised, always engaging around **247** convicts.
- **22** of the convicts serving their punishment at Armavir Penitentiary Establishment are engaged in the **technical and household services** of the Institution.
- It is also envisaged to establish a **bake shop** which will not only supply the required amount of bread for persons held in confinement, but also ensure activity of around **5** convicts.

131. As for the football pitch located on the administrative territory of Armavir Penitentiary Establishment, the Penitentiary Service assures that it is currently fully used to ensure the recreational activities of convicts. The roof of the gym of Vanadzor Penitentiary Establishment is currently being renovated.

5. Health care

Before addressing the CPT's recommendations and requests for information regarding the health-care in the penitentiary establishments the following must be noted.

According to Government Decree No. 131-N (No. 131-Ն) of 14 January 2016⁶⁸ the developing of conceptual approaches on modernization of the health-care services of penitentiary establishments, identifying legislative and other problematic aspects of the system as well as planning of required reforms are priorities for the Armenian Government. In this framework steps should be made to modernize the legislation regulating provision of health-care services in penitentiary establishments, to organise training courses on human rights and medical ethics for the staff (800 staff members) of the penitentiary institutions as well as to acquire necessary modern accessories and equipment for providing medical assistance in medical units of 11 penitentiary institutions.

In the framework of the project Support to the Government of Armenia for the Implementation of the European Neighbourhood Policy (ENP) Action Plan and Future Association Agreement, the Programme on Penitentiary System Reforms 2016-2018 - which includes an extensive list of measures to be implemented in targeted areas of medical care - was approved by Order No. 653-A (No. 653-Ա) of the Minister of Justice of the Republic of Armenia on 30 December 2015. For the purpose of ensuring proper implementation of this Programme and the Action Plain deriving thereof, a timetable was set for the realisation of the measures envisaged therein by Order of the Head of the Penitentiary Service of the Ministry of Justice dated 9 February 2016⁶⁹.

As mentioned in the "INTRODUCTION" of the Response, the Armenian authorities - in cooperation with the Council of Europe and the European Union - are implementing the project Penitentiary reform - Strengthening Healthcare and Human Rights Protection in Prisons in Armenia (2015-2017) aimed at improving the capacity of the penitentiary staff of applying the relevant European prison standards.⁷⁰ It is envisaged that upon completion of the mentioned project the legal and institutional framework of healthcare in prisons will be brought in line with European standards, the material conditions of penitentiary institutions' healthcare units will be upgraded with new equipment and medical and non-medical prison staff will be trained on the European prison healthcare standards, human rights and medical ethics. As a result, during their incarceration inmates will have access to requisite medical care which will not only preserve but, when needed, will also enhance their physical and mental health status and thus will facilitate their reintegration to the society.

In the scope of this project, the Concept Paper on Modernising the Health-care Services of Penitentiary Institutions was drafted by the Ministry of Justice.⁷¹ The Concept Paper touches upon the following issues:

⁶⁸ Government Decree No. 131-N (No. 131-Ն) of 14 January 2016 on Approving the Action Plan and Priorities for 2016 of the Government of the Republic of Armenia

⁶⁹ Order No. 24-L (N 24-L) dated 9 February 2016

⁷⁰ <http://pjp-eu.coe.int/en/web/eap-pcf/press>

⁷¹ The draft of the Concept Paper has been put under official circulation to receive the opinions of the relevant authorities concerned.

- *The analysis of legislative regulations and institutional aspects of health-care services of penitentiary establishments, considering also the international obligations undertaken by the Republic of Armenia;*
- *The examination of the international practice and standards approved by the international documents regarding the health-care services of penitentiary establishments;*
- *Elaboration of possible solutions based on the international standards which will address the issue of modernisation of the health-care services provided at penitentiary establishments.*

Staff and facilities

With reference to paragraph 77 of the Report

Concerning Nubarashen Prison, the Committee refrained from making any precise recommendation without knowing the Armenian authorities' plans for the future of the establishment. The CPT wished to receive that information in the authorities' response.

Concerning Yerevan-Kentron Prison, the Committee recommended that steps be taken to ensure that a person qualified to provide first aid, preferably someone with a recognised nursing qualification, is present around the clock at the establishment, including on weekends.

As for Armavir Prison, the Committee recommended that steps be taken to ensure that all the doctors' posts are filled by doctors actually working in the establishment. Further, a significant increase in the number of duly trained feldshers (and/or nurses) will be required.

Turning to Vanadzor Prison, the Committee recommended that efforts be made to fill the vacant posts for a doctor and a nurse.

More generally, the CPT stressed once again that it will be extremely difficult to improve the prison health-care staff complement without significantly increasing staff salaries and offering more opportunities for professional development.

132. With regard to the observation made in paragraph 77 of the Report, the plans of the Penitentiary Service for the future operation of Nubarashen Penitentiary Establishment have been presented above.

133. As to Yerevan-Kentron Penitentiary Establishment, currently, a qualified nurse is employed at the medical service unit of the Establishment on a contractual basis who provides first aid - where necessary - also on non-working days and hours. The process of staffing the mentioned institution with the vacant post of a feldsher is in the spotlight of senior officials of the Penitentiary Service as a matter of urgency.

134. All the staff positions of the medical service unit of Armavir Penitentiary Establishment are currently filled with highly qualified health-care professionals.

135. All the staff positions of doctors of the medical service unit of Vanadzor Penitentiary Establishment are filled. 4 out of 5 staff positions of a feldsher are filled; the process of filling 1 staff position is in progress.

136. As for the issue of increasing the salaries of the medical staff, a number of legal and organisational measures have been undertaken by the Penitentiary Service in that direction. This will help to replenish the medical staff with experienced and highly qualified personnel. In this context:

a) A Memorandum of Cooperation was signed between the Ministry of Justice and Yerevan State Medical University after Mkhitar Heratsi Foundation in January 2015. In line with European Prison Rules prescribing that "medical services in prison shall be organised in close relationship with the general health administration of the community" the Memorandum prioritises the necessity of properly organizing medical aid and services in penitentiary institutions. It also acknowledges the significance of provision of health care services by specially trained and independent from the prison medical and nursing staff professionals.

In the framework of implementing the Memorandum, it is envisaged to establish clinical units for prison (penitentiary) medicine or related professions in Central Prison Hospital and Armavir Penitentiary Institution. The clinical units will pursue the aim of preparing appropriate medical professionals and organising their practical work with the remand prisoners and convicts. The trainees studying in mentioned clinical units will be certified to work in healthcare units of the penitentiary institutions and provide counselling and practical assistance to patients undergoing complicated treatment in penitentiary institutions. It is also noteworthy that the cost of the trainings will be covered by the Government.

The Memorandum, in cooperation with the appropriate representatives of the Ministry of Justice, also envisages elaborating and introducing a course on prison (penitentiary) medicine which will be taught in the Yerevan State Medical University. The course, among the others, will be focused on issues of diagnosing and treating the illnesses which are common problem in penitentiary institutions.

b) Upon the initiative of the Penitentiary Service, a *draft Law on Making Amendments and Supplements to the Republic of Armenia Law on Penitentiary Service has been developed*. The ultimate objective of the draft is to lift the age restrictions for admitting to and dismissing from the Penitentiary Service. The draft provides for admitting medical professionals to Service before they attain the age of 45 years and setting an upper age limit of 65 years for their dismissal from service. According to the *Law on Penitentiary Service*, the maximum lowest age limit for admitting to Service is 30 years, which hinders the process of staffing medical service units with experienced personnel.

The mentioned legislative amendment will make it possible to staff medical service units of Penitentiary Service with qualified specialists who are experienced in the field of medical science, as well as to improve the quality of medical service offered to remand prisoners and convicts.

c) Due to the need to prevent the outflow of high-quality specialists of the medical service unit, as well as to hire experienced doctors above the age of 30, the special civil service positions have been introduced within the Penitentiary Service by means of reorganising existing penitentiary service positions. As a result, the penitentiary officers having attained the maximum age limit for the service, but having vast experience in the field of medical science are provided with the opportunity to remain in the system at the same time becoming entitled to a long-term service pension by retaining their salary.

The importance of the reform is that, by appointing penitentiary officers (doctors) - having attained the maximum age limit - to civil service positions, their military salary is fully retained; moreover, they are also provided with the opportunity to also become entitled to a long-term service military pension (comprising around AMD 235,000 in total), which is almost twice higher than the salary of a civil servant who has just been admitted to the service (around AMD 120,000).⁷²

With reference to paragraph 78 of the Report

The Committee called upon the Armenian authorities to ensure that prisoners in need of specialist treatment (including outside consultations/examinations and hospitalisation) are granted access to such care without undue delay and free of charge.

⁷² The comparisons are made according to the number of doctors holding lowest positions of the officer personnel, since remuneration of the Deputy Head of Department and the Head of Department in the particular case will comprise around AMD 300,000.

137. At the outset, it is to be noted the medical services provided in the penitentiary system are free of charge. Besides, within the scope of the free medical assistance guaranteed by the state, examinations and medical treatments are carried out at healthcare institutions of the Republic of Armenia.

138. As to the dental services, the draft *Concept Paper on Modernising the Health-care Services of Penitentiary Institutions* puts particular emphasis to improvement of dental services provided to persons deprived of liberty. In this context, it is to be noted as well that a legislative package on minimum technical and technological requirements of dental services was elaborated.

139. Remand prisoners and convicts benefit from the services of, as well as examinations and treatment carried out by the medical specialists chosen by them and working outside of the penitentiary system - on a paid basis - in civil hospitals operating outside of the penitentiary system. Medical services are provided promptly to the remand prisoners and convicts who are in need of emergency medical assistance, while others - according to plan.

140. As for the lack of objective criteria for hospitalisation, point 55 of Chapter 7 of the Procedure established by Government Decree No. 825-N (N 825-Ն) of 26 May 2006⁷³ (hereinafter, Government Decree No. 825-N) reads as follows: "Only those remand prisoners and convicts who are ill and in need of in-patient examination or specialised medical care and whose medical cards contain the opinion and referral of a medical specialist, shall be admitted to the in-patient facility of the medical service department, unit or group." According to point 58 of the same Chapter, "The in-patient facility of the medical service department, unit or group shall carry out:

- medical examination and treatment of a remand prisoner or convict in need of in-patient treatment for a period of up to 14 days, except for remand prisoners or convicts in need of care;
- temporary isolation of remand prisoners and convicts suffering from an infectious disease or a disease posing a danger to others in separate conditions;
- in-patient treatment for a period of more than 14 days in cases of advice from a medical specialist with relevant specialisation, availability of a specialised unit or a decision of the Medical Working Commission."

141. According to point 59 of the Procedure, "In case of insufficiency of the extent of medical assistance and care in the in-patient facility, remand prisoners or convicts who are ill must be transferred to a medical correctional institution or medical institutions of other healthcare bodies upon agreement with the head of the medical service division of the department, except for the cases of providing emergency medical assistance (...)"

142. According to points 67 and 68 of Chapter 10 of the Procedure, "Remand prisoners and convicts shall be subject to hospitalisation in a medical correctional institution, where their examination or treatment under the conditions available in the medical service department or unit or group of the institution is not possible or there is a need for a specialised or long-term treatment. Remand prisoners and convicts shall be admitted to a medical correctional institution exceptionally based on medical instructions. The referral by a medical specialist of the institution together with the respective opinion on the necessity of in-patient examination or treatment of the remand prisoner or convict who is ill is necessary for admitting the remand prisoner or convict to a medical correctional institution, except for the cases of providing emergency medical assistance."

⁷³ Government Decree No. 825-N (No. 825-Ն) of 26 May 2006 on Approving the Procedure for Arranging Medical and Sanitary as well as Medical Preventive Assistance for Remand Prisoners and Convicts, for Having Access to Medical Facilities of Healthcare Institutions and for Engaging their Medical Staff for that Purpose

143. The analysis of the abovementioned regulations - in our opinion - objectively discloses the content of clarity and mandatory nature of the objective criteria for hospitalisation.

With reference to paragraph 79 of the Report

The Committee recommended that, if the Armenian authorities decide to continue operating Nubarashen Prison, the medical equipment shortages (such as absence of a manual resuscitator or a defibrillator) and discrepancies as regards facilities would need to be addressed.

Once the new premises of Armavir Prison are properly staffed, equipped and furnished, the Armenian authorities should seriously consider the idea of transferring there the present in-patient facility from Nubarashen Prison.

The Committee recommended that steps be taken to address the deficiencies regarding the poor working conditions for health-care staff and the shortage of medical equipment available at Vanadzor Prison.

144. In the framework of the *project Penitentiary reform - Strengthening Healthcare and Human Rights Protection in Prisons in Armenia (2015-2017)*, it is envisaged to acquire necessary modern accessories and equipment for providing medical aid in medical units of 11 penitentiary institutions. For these purposes visits to penitentiary institutions of the Republic of Armenia were carried out by the experts to review the current state of medical equipment. As a result, evaluation of accessories and equipment was conducted and a proposal for the acquisition of medical equipment and accessories for about EUR 200,000 has already been prepared with the relevant specialists and submitted.

145. Furthermore, in the course of 2015 and 2016, due to the savings policy implemented by the Penitentiary Service:

- a) 48 required types of medical accessories and equipment (such as set of dental forceps, ESG 101G Bio care electrocardiograph, 18x24 cm, 21x30 cm and 35x45 cm X-ray film camera, small set of surgical instruments, laryngoscope, steriliser, otoscope, etc.) have been acquired;
- b) ultrasound equipment has been acquired for Armavir Penitentiary Establishment and the Central Prison Hospital;
- c) the corridor of the administrative auxiliary building and a number of offices, the kitchen and common use ward of the therapeutic unit of the residential area, the operating room of the surgical unit, a number of wards of the tuberculosis unit have been repaired at the Central Prison Hospital;
- d) the dental room at Vardashen Penitentiary Establishment has been completely repaired and furnished with modern dental equipment.

146. A reanimation and intensive therapy unit is envisaged to be established at the Central Prison Hospital. In the nearest future, dental x-ray systems are envisaged to be acquired for the Central Prison Hospital, Nubarashen and Armavir Penitentiary Establishments.

147. As for the concerns of the CPT experts about long-term stay of prisoners not having any obvious health problems at the medical service unit of the in-patient facility of Nubarashen Penitentiary Establishment, the Penitentiary Service assures that only patients with serious health problems and suffering from diseases that require long-term treatment, such as tuberculosis, patients with mental problems, those having lost their movement ability and in need of care or blind persons are kept at the in-patient facility. There are also cases when patients suffering from severe diseases requiring long-term treatment, refuse to be transferred to the Central Prison Hospital and threaten to harm themselves in case of compulsory transfer.

148. The proposals of the CPT on transferring the in-patient facility of the medical service unit of Nubarashen to Armavir Penitentiary Establishment were discussed at the Penitentiary Service. The position of the Penitentiary Service is that the problem is fully covered within the scope of the prospective project for building a new penitentiary institution instead of Nubarashen Penitentiary Establishment; therefore, it will be addressed in case of appropriate financial assistance.

149. The termination of operation of the in-patient facility of the operating penitentiary institution would be unacceptable in the current situation, conditioned by the necessity of medical service for remand prisoners and convicts. It is not appropriate to close the in-patient facility at a penitentiary institution where a large number of persons are kept.

150. Turning to the issues raised by the CPT, regarding Vanadzor Penitentiary Establishment, the offices of the medical service unit of Vanadzor have been repaired.

With reference to paragraph 80 of the Report

The Committee noted the shortage of medication provided at the penitentiary establishments and called upon the Armenian authorities to ensure that all prisoners are supplied with appropriate medication, free of charge for the inmates.

151. The officers responsible for medical services within the Penitentiary Department of the Ministry of Justice carry out surveys and analyses aimed at changing the quantitative composition and the list of medicines to be purchased, according to the need and demand. For example, it can be stated that the Penitentiary Service acquired 595 types of medicines and medical accessories in 2012, 643 in 2013, 293 in 2014 and 310 in 2015. The comparison made according to years shows that the medical services of the Penitentiary Service are replenished with additional types of medicines every year.

152. Besides, it should be stated that an additional 41 types of required medicines have been acquired at the expense of the State Budget from around AMD 16 million saved in 2015.

153. As regards medicine brought to penitentiary institutions by the relatives of persons deprived of liberty, pursuant to Government Decree No. 825-N persons deprived of liberty are entitled to freely benefit from services of other medical specialists and receive medicine not prohibited by the legislation. Nevertheless, in order to fill in the legislative gaps in this sector, a specific regulation on implementing the procedure for accepting, registering and handing over the medicine brought to penitentiary institutions by the relatives of persons deprived of liberty was prescribed by Instruction No E40/7.1-1253 (N E40/7.1-1253) of 1 April 2015 of the Head of the Penitentiary Service.

a. Medical screening on admission/prevention of violence

With reference to paragraph 81 of the Report

The Committee once again called upon the Armenian authorities to take immediate steps to ensure that, in all prisons in Armenia, medical examinations of detained persons are always conducted out of the hearing and - unless the health-care staff concerned request otherwise in a particular case - out of the sight of police/prison officers.

The Committee also recommended that the Armenian authorities take the necessary steps (including through the issuance of instructions and the provision of training to relevant staff) to ensure that in all prisons in Armenia:

- *members of the health-care staff are as a rule not directly involved in the administrative procedure of handover from police custody;*

- *prisoners who are found to display injuries upon their admission to prison are not questioned by anyone about the origin of those injuries during the above-mentioned handover procedure;*

- *all newly-arrived prisoners are subjected as soon as possible, and no later than 24 hours after their admission, to a comprehensive medical examination by a health-care professional in a medical unit of the prison.*

154. Upon admission to detention facilities (including by transfer), persons undergo an initial medical examination, the results of which are recorded in the relevant register for the purpose of providing medical assistance and recording bodily injuries or any other complaints about the state of health. All medical examinations must be conducted out of the hearing and sight of penitentiary or other officers.

155. If the bodily injury or complaint about the state of health detected as a result of a medical examination is, as reported by the detained person or convict, a result of any act containing elements of crime, the person conducting the medical examination informs the administration of the detention facility or correctional institution thereof. The administration of the detention facility or correctional institution promptly informs the competent authorities thereof. The results of any medical examination, as well as the statements of the detained person and conclusions of the doctor must be accessible for the detained person or convict and the authorised person thereof.

156. The above-mentioned requirements are clearly specified in the Procedure approved by Government Decree No. 825-N and are observed without reservation by all members of the medical service staff of the penitentiary institutions.

157. Besides, clear regulations on proper organisation of initial medical examinations of persons admitted to and transferred from a detention facility, as well as on the recording of complete information in the records have been prescribed by Instruction No. E40/7.1-2459 (N E40/7.1-2459) of 8 June 2015 of the Head of the Penitentiary Service.

With reference to paragraph 82 of the Report

The CPT reiterated its long-standing recommendation that steps be taken to ensure in all prisons that:

- *the record drawn up after the comprehensive medical examination of a newly-arrived prisoner contains (i) an account of statements made by the person concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment); (ii) a full account of objective medical findings based on a thorough examination, and (iii) the health-care professional's observations, in the light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings; this record should take fully into account any attestation of injuries observed upon admission during the procedure of handover of custody;*

- *the results of every examination, including the above-mentioned statements and the health-care professional's conclusions, are made available to the prisoner and his/her lawyer;*

- *the procedure described above is also followed whenever a prisoner sustains a traumatic lesion while in prison.*

The record should also contain the results of any additional examinations performed, detailed conclusions of any specialised consultations and an account of treatment given for injuries and of any further procedures conducted.

The recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with "body charts" for marking traumatic injuries that will be kept in the medical file of the prisoner. If any photographs are made, they should be filed in the medical record of the inmate concerned. This should take place in addition to the recording of injuries in the special trauma register.

158. Observations mentioned in paragraph 82 of the Report have always been the focus of attention of the senior officials of the Penitentiary Service. In particular, activities for developing and designing an information system for electronic management of the penitentiary system launched about a year ago at the initiative of the Penitentiary Service are complete.

159. The Penitentiary Service and the specialists of "Vxsoft" company designed and developed in detail the *Information Register of Remand Prisoners and Convicts of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia*, which is unprecedented in terms of scale and technical capabilities.

160. The system fully includes information about all the functions performed under the legislation with respect to remand prisoners and convicts, the necessary documents, information on conditional early release from punishment, changing the regimes for serving the punishment, visits, education, work, as well as other important data.

161. What especially stands out are the medical histories of persons held in confinement, where the information inputted and the sequence of required actions is adapted to the templates of the Istanbul Protocol which is an internationally recognised guideline in the field of prison medicine.

162. Thus, the observations made by the CPT with regard to medical examinations are fully acceptable and will be included in the mentioned electronic register along with the fundamentals of the Istanbul Protocol.

163. Another one of the advantages of the automated complex is the possibility to receive reports in any format, carry out analytical activities, as well as automatically perform the duties of administrations of penitentiary institutions provided for by legislation, excluding the human factor.

164. The register will also be endowed with such technical capabilities that will help create a link between it and other information registers functioning within the law-enforcement systems of the Republic of Armenia, for the purpose of exercising proper and targeted control in the field of human rights protection with observance of internationally recognised standards (in the fields of observing the time limits, excluding omissions, etc.).

165. The system will be introduced with the support of the European Union and the Council of Europe and is planned to be put into operation in early 2017.

With reference to paragraph 83 of the Report

Regarding the procedure of reporting injuries to competent authorities, which should be the duty of health-care professionals, reference is made to the comments and recommendations in paragraphs 25 and 26 of the Report.

166. With regard to the observations made in paragraph 83 of the Report in relation to the procedure for reporting bodily injuries to competent authorities, the obligation of the administrations of penitentiary institutions to report the bodily injuries detected during the medical examinations of remand prisoners and convicts admitted or transferred to penitentiary institutions was presented more in detail in paragraphs 154-157 of the Response. The references to and observations on paragraphs 25 and 26 of the Report made are not applicable to the Penitentiary Service.

b. Transmissible diseases

With reference to paragraph 85 of the Report

Newly-arrived prisoners were treated, on a voluntary basis, for the presence of hepatitis B and C virus, but there were no treatments available. The Committee wished to be informed whether there are any plans to introduce such treatments (and, if yes, which treatments).

167. The treatment for hepatitis B is carried out in the infectious disease ward of the Central Prison Hospital, and the treatment for hepatitis C is carried out on a paid basis.

168. Works are being carried out with international humanitarian organisations for conducting a survey on the incidence of hepatitis C among persons held at the penitentiary institutions and also for acquiring necessary medication for further treatment.

With reference to paragraph 86 of the Report

The Committee recommended that the Armenian authorities devise a policy aimed at putting an end to the practice of segregating HIV-positive prisoners. That policy should provide inter alia for a programme of education and information for both prison staff and inmates about methods of transmission and means of protection as well as the application of adequate preventive measures. More particularly, the risks of HIV or hepatitis B/C infection through sexual contacts and intravenous drug use should be highlighted and the role of body fluids as the carriers of HIV and hepatitis viruses explained. Prison staff in particular should be provided with on-going training in the attitudes to be adopted regarding HIV-positivity and given appropriate instructions concerning non-discrimination and confidentiality.

169. With reference to the recommendations mentioned, it is to be noted that HIV-positive remand prisoners and convicts receive treatment not only at the Central Prison Hospital, but also in other penitentiary institutions, and they are not segregated from others.

170. Since 2004 the *National AIDS Prevention Programme* was introduced in the penitentiary system. The staff of penitentiary institutions, as well as remand prisoners and convicts underwent training and informative training courses on AIDS prevention.

171. In collaboration with the subdivisions of the Ministry of Healthcare, as well as non-governmental and charity organisations (including *Doctors without Borders*), measures aimed at combating tuberculosis, methadone substitute treatment and prevention of HIV/AIDS are constantly being carried out, as a result of which the process of revealing patients with tuberculosis, HIV/AIDS, as well as combating drug addiction, has improved.

c. Psychiatric care and psychological assistance

With reference to paragraph 87 of the Report

The Committee called upon the Armenian authorities to improve the provision of psychiatric care to prisoners, in particular by securing regular visits by psychiatrists to Armavir and Vanadzor Prisons and by ensuring adequate standards of care at Nubarashen Prison. As regards prisoners under psychiatric observation at Nubarashen Prison, reference is made to the recommendation in paragraph 65 of the Report, which applies mutatis mutandis.

Further, the Committee recommended that steps be taken to ensure that all mentally disturbed prisoners who require in-patient psychiatric treatment are promptly transferred to appropriate hospital facilities.

172. Psychiatric care for remand prisoners and convicts is provided by the staff of the psychiatric ward of the Central Prison Hospital, as well as by the Head of the Medical Service Department of Abovyan Penitentiary Establishment, by a leading specialist of the Medical Service Department of Nubarashen Penitentiary Establishment, and a medical staff member of Artik Penitentiary Establishment who works on contractual basis. All the mentioned persons are psychiatrists by profession. Psychiatric care in other penitentiary institutions is organised through regular visits of psychiatrists of the penitentiary system and through the invited specialists from psychiatric institutions.

173. As to those in need of in-patient treatment, they are transferred to the psychiatric ward of the Central Prison Hospital, in-patient facilities of the medical service departments of Nubarashen and Armavir Penitentiary Establishments, as well as - where necessary - to the medical institutions of the Ministry of Healthcare of the Republic of Armenia.

With reference to paragraph 88 of the Report

The Committee recommended that the Armenian authorities reinforce the provision of psychological assistance in prisons and develop the therapeutic role of prison psychologists.

174. The provision of psychological assistance at penitentiary institutions is organised in accordance with Order No. 44-N (N 44-Ն) of 30 May 2008 of the Minister of Justice on *Approving the Procedure for the Activities of Structural Subdivisions Carrying out Social, Psychological and Legal Activities with Remand Prisoners and Convicts*. Point 8 of the Order reads as follows: "Remand prisoners and convicts, except for minors, are included in social, psychological and legal activities on a voluntary basis." The will of the remand prisoner or convict is a necessary condition for being included in psychological activities. Hence, persons having expressed such a desire are provided with such assistance.

175. It should be noted that an individual Programme of Correctional Rehabilitation is drawn up for each convict following the study of the social and psychological specifics, the diagnosis and the needs assessment. It is drawn up in the course of one to three months after placing convicts within the penitentiary institution. The programme specifies the actions and/or measures planned to be carried out for convicts in the course of serving the punishment.

176. A plan for conditional early release of a convict is drawn up three months before the convict is granted conditional early release, the remaining part of the punishment is replaced by a milder punishment or the term of punishment is fully served, and activities envisaged by the plan are carried out for their smooth reintegration into the society after release.

177. The issue of improvement and development of psychological assistance provided at the penitentiary institutions of the Ministry of Justice of the Republic of Armenia is always at the spotlight of the administration of the Penitentiary Service, as a result of which the psychological assistance staff of the penitentiary institutions was increased by four additional positions between 2015 and 2016 alone.

178. Furthermore, in 2015, a Memorandum of Co-operation was signed between the Penitentiary Service and "AYG" Centre for Psychological Services. In the framework of the Memorandum, the psychologists of the organisations paid visits to Nubarashen and Armavir Penitentiary Establishments for providing psychological services to convicts and detained persons. The process will be ongoing as well, envisaging also internships for students at penitentiary institutions.

With reference to paragraph 89 of the Report

The CPT recommended that the Armenian authorities take duly into account the remarks mentioned in paragraph 89 and review their current practice vis-à-vis prisoners with drug-related problems.

179. The narcological unit of the Central Prison Hospital provides treatment to active drug addicts, as well as persons receiving compulsory treatment against drug addiction imposed by a court decision. After the treatment, dispensary control of these persons is carried out in the respective penitentiary institution, and they are monitored by the medical staff and the staff of the subdivision providing social, psychological and legal services.

180. Harm-reduction measures are being carried out at 9 penitentiary institutions, which include the single-use syringe exchange, AIDS tests, condom availability programmes.

181. Activities against the use of drugs are carried out for remand prisoners and convicts through explanatory interviews, as well as regular visits of spiritual servants of the *Armenian Apostolic Church* to drug addicts and counselling.

182. Since 2011, the methadone detoxification programme has been carried out in the penitentiary system. Currently, 166 convicts are undergoing the methadone detoxification programme. Traditional treatment methods (detoxification, general recovery, psychotherapeutic, etc.) are offered to drug addicts at penitentiary institutions, in line with the international standards. Due to the absence of conditions, these treatment methods differ only from post-treatment rehabilitation.

183. Social and psychological group activities are carried out in parallel with the treatment for drug and alcohol addicted prisoners, and they are aimed at strengthening the volitional power, increasing the effect and efficiency of the treatment methods applied, restoring the social skills lost as a consequence of addiction, etc.

With reference to paragraph 90 of the Report

The Director of Vanadzor Prison assured the CPT delegation that the so called “calming down cell” would be taken out of service permanently and transformed into storage premises for use by the health-care staff. The Committee wished to receive confirmation that this has indeed happened.

184. The Armenian authorities assure that the so-called “calming down cell” at Vanadzor Penitentiary Establishment is now used as a warehouse area.

e. follow-up visit to the Central Prison Hospital

With reference to paragraph 91 of the Report

The Committee wished to receive the Armenian authorities’ observations on the possibilities to rationalise the use of the Central Prison Hospital’s estate.

185. With reference to the observations regarding the unacceptability of accommodating somatic patients together with psychiatric patients, the Armenian authorities, in the preliminary response submitted to the CPT on 20 January 2016, informed that the Head of the Penitentiary Service has assigned to undertake all necessary measures to ensure that the mentioned patients are kept separately. Thus, starting from early 2016, somatic patients are **held separately** from psychiatric patients, each being held in the section separated for that purpose.

186. As for the recommendation to rationalise the use of the estate of the Prison Hospital, the Penitentiary Service states that the auxiliary buildings and bed capacity are currently more than sufficient for meeting the objectives of the institution.

187. It should be noted as well that the Penitentiary Service is also considering the issue of building a new Central Prison Hospital which will correspond to the international standards.

With reference to paragraph 93 of the Report

The Committee reiterated its recommendations made in the reports on its visits in 2002 and 2010 and therefore called upon the Armenian authorities to ensure that:

- *there is a regular presence of specialists qualified to provide therapeutic and rehabilitative activities, such as psychologists and occupational therapists, in the psychiatric ward. Further, the number of ward-based feldshers and orderlies should be increased;*

- *the treatment of patients in the psychiatric ward is 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.*

Furthermore, efforts should be made to ensure the availability of newer generation anti-psychotic and anti-depressant medication.

188. In this regard, the treatment at the psychiatric ward of the Central Prison Hospital is conducted properly; psychologists and clergymen visit persons with mental problems as well.

189. Aside from the pharmaceutical treatment at psychiatric wards, social and psychological rehabilitation programmes are being introduced through multi-faceted measures, as a result of which special rehabilitation social therapy programmes will be developed in the near future, based on the recommendations of the CPT experts.

With reference to paragraph 94 of the Report

The CPT recommended that the Armenian authorities introduce a specific register for recording every instance of restraint of a patient on the psychiatric ward of the Central Prison Hospital.

190. For the purpose of implementing the observations and recommendations made by the CPT, the Head of the Penitentiary Service issued Order No. 100-L (N 100-L) on 2 August 2016 which prescribed specific regulations on recording cases of using measures of restraint to calm down the agitated patients in the register approved by the Order, as well as on attaching the prepared documented justifications to the patient's file thereof.

With reference to paragraph 95 of the Report

The CPT strongly encouraged the Armenian authorities to give a serious consideration to transferring the responsibility of prison health-care services to the Ministry of Healthcare.

The Committee noted that a new well-funded joint EU/Council of Europe project concerning health-care in prisons has been initiated recently. The CPT wished to receive information of the progress made in this respect.

191. Conditioned by the necessity to ensure the independence of the health-care staff, the potential legal and organisational opportunities are being discussed in the framework of the draft *Concept Paper on Modernising the Health-care Services of Penitentiary Institutions*⁷⁴, which - as mentioned hereinabove - was developed within the framework of the EU/CoE project concerning the health-care in prisons.

192. With regard to the progress made in respect of the EU/CoE project concerning health-care in prisons⁷⁵ the following must be mentioned. It should be recalled that this project is aimed at improving the capacity of the penitentiary staff of applying the relevant European prison standards. It is envisaged that upon completion of the mentioned project the legal and institutional framework of healthcare in prisons will be brought in line with European standards, the material conditions of penitentiary institutions' healthcare units will be upgraded with new equipment and medical and non-medical prison staff will be trained on the European prison healthcare standards, human rights and medical ethics. As a result, during their incarceration inmates will have access to requisite medical care which will not only preserve but, when needed, will also enhance their physical and mental health status and thus will facilitate their reintegration to the society.

193. In the framework of the said project, it is envisaged to acquire necessary modern accessories and equipment for providing medical assistance in medical units of 11 penitentiary institutions. For these purposes visits to penitentiary institutions of the Republic of Armenia were carried out by the experts to review the current state of medical equipment. As a result, evaluation of accessories and equipment was conducted and a proposal for the acquisition of medical equipment and accessories for about EUR 200,000 has already been prepared with the relevant specialists and submitted. Furthermore, the health-care service specialists of the Penitentiary Service participated in a seminar concerning prison health-care services which was held in Madrid, Spain in October 2015.

⁷⁴ For more details, see pages 53-54 of the present document.

⁷⁵ *Penitentiary reform - Strengthening Healthcare and Human Rights Protection in Prisons in Armenia (2015-2017)*

194. Training courses on *Human Rights and Medical Ethics* and *Health Promotion and Prevention Measures* have already been developed based on which the training courses for about 800 employees of Penitentiary Service will be implemented. In this regard it should be mentioned that in May 2016, representatives of the Penitentiary Service participated in the said training courses. It should be mentioned as well that the representatives of the Penitentiary Service took part in training courses for exchange of experience, on the development of the system of health-care services of penitentiary institutions, professional training courses for medical and non-medical staff of penitentiary institutions, as well as in training courses on material equipment of prisons, held in Stockholm, Kingdom of Sweden, on 13-17 June 2016;

6. Other issues of relevance to the CPT's mandate

a. Prison staff

With reference to paragraph 96 of the Report

The CPT called upon the Armenian authorities to take urgent steps to increase significantly custodial staffing levels and presence in accommodation areas of the prisons visited. Naturally, recruiting more (especially junior level) custodial staff will be very difficult, if not impossible, without increasing salaries). Further, implementation of the recommendation set out in paragraph 48 of the Report will require recruiting more qualified staff (work instructors, teachers, educators, social workers, etc.).

At the end of the visit the Committee was informed that new blocks of Armavir Prison would not be brought into operation before sufficient staffing is secured. The Committee wished to receive updated information on the subject.

195. As regards the observations regarding the salaries of the staff, the problem of increasing the salaries of junior level custodial staff is constantly the focus of attention of the Government of the Republic of Armenia. In particular, during the sessions held on 27 March 2015 and 1 April 2015 with the Prime Minister in relation to the 2014 Activity Reports of the Ministry of Justice and the Penitentiary Service, among other instructions, based on the need to combat corruption, as well as prevent personnel turnover of penitentiary officers of the junior level custodial officers of the penitentiary institutions it was also instructed to undertake measures to increase their salaries.

196. Due to the policy aimed at increasing the salaries of the junior level custodial officers, in 2015-2016 alone - upon the initiative of the Penitentiary Service - 123 staff positions of the junior level of the penitentiary institutions (24 of them in 2015 and 99 in 2016) were reorganised into service positions as a result of structural changes, which implied substantial increase in the salary as well as securing of sufficient staffing (on average, a newly hired junior officer receives a salary of AMD 88,000, and an officer receives a salary of AMD 130,000-138,000). The process will be ongoing, and similar legal and organisational measures will be implemented in the future within the scope of the budget of the Penitentiary Service.

197. The issue of recruitment and distribution of the staff, as well as effective use thereof requires dynamic approaches; thus, modern solutions are always studied and introduced through structural changes being periodically made and through distribution of the staff.

198. Furthermore, extensive measures have been implemented aimed at the recruitment of qualified staff to the Penitentiary Service, as well as raising the qualification of the employees.

a) A state educational standard for the qualification of *Penitentiary Officer* was developed with an ultimate objective to recruit a qualified staff with primary vocational education.

b) In 2015-2016, 81 officers of operational subdivisions of the Penitentiary Service took part in the training courses on operational intelligence organised at the Police Academy of the Republic of Armenia.

c) Within the framework of the *EU/CoE project Penitentiary reform - Strengthening Healthcare and Human Rights Protection in Prisons in Armenia (2015-2017)* the health-care service specialists of the Penitentiary Service participated in a seminar concerning prison health-care services which was held in Madrid, Spain in October 2015.

d) In May 2016, representatives of the Penitentiary Service participated in training courses titled *Medical Ethics and Human Rights; Health Promotion and Prevention Measures*. Within the framework of the same project, representatives of the Penitentiary Service took part in training courses for exchange of experience, on the development of the system of health-care services of penitentiary institutions, professional training courses for medical and non-medical staff of penitentiary institutions, as well as in training courses on material equipment of prisons, held in Stockholm, Kingdom of Sweden, on 13-17 June 2016;

e) The Penitentiary Service closely co-operates with the OSCE Office in Yerevan and *Rehabilitation Centre for Offenders SNCO*, due to the efforts whereof about 200 employees who are responsible for social, psychological and legal activities, as well as those from the subdivisions for execution of alternative punishments of the Penitentiary Service have participated in seminars on the prison medicine and psychology, social rehabilitation programmes, the establishment and specifics of probation, as well as other important seminars.

199. Turning to the issue of staff complement of Armavir Penitentiary Establishment, as of 27 July 2016, 269 staff positions are available in Armavir Penitentiary Institution, 3 of which are for psychologists.

With reference to paragraph 98 of the Report

The Committee recommended that the Armenian authorities review the 24-hour shift system for custodial staff.

200. As regards the observations and recommendations presented in paragraph 98 of the Report, it should be noted that the mechanisms for the exercise of the right to rest of citizens working in shifts and in a 24-hour working pattern are properly regulated by the legislation of the Republic of Armenia, and there have still not been any objective grounds as to the inefficiency thereof.

201. The possibilities for working in an 8-hour pattern in the Penitentiary Service have also been discussed before, and the officers working in a 24-hour working pattern spoke against the proposal as well. For these reasons, the Penitentiary Service will currently abstain from implementing the recommendation to substitute the 24-hour shift system for an 8-hour shift system.

With reference to paragraph 99 of the Report

The Committee wished to receive more detailed information on the prison staff training reforms.

202. In this regard reference is made to the trainings already conducted and envisaged in the framework of the project *Penitentiary reform - Strengthening Healthcare and Human Rights Protection in Prisons in Armenia (2015-2017)*. These trainings are specifically aimed at enhancing the theoretical and practical knowledge of medical and non-medical prison staff on the European prison healthcare standards, human rights and medical ethics.

b. Discipline and segregation

With reference to paragraphs 101 and 102 of the Report

The Committee called upon the Armenian authorities to take resolute steps to eliminate all the lacunae regarding the disciplinary procedure applied at the penitentiary establishments.

The Committee recommended that the involvement of prison health-care staff in the disciplinary procedure be stopped immediately at Vanadzor Prison.

203. As regards the observations presented in paragraph 101 of the Report, the Penitentiary Service provides the following explanations. The disciplinary procedure is regulated by Government Decree No. 1543-N. In addition, specific regulations have been established by Order No. 205-A (N 205-U) of 12 March 2015 of the Head of the Penitentiary Service to ensure uniformity in disciplinary practice at penitentiary institutions, quality and validity of disciplinary proceedings and, if necessary, consultations, as well as centralised record keeping of the course and results of official investigations.

204. Bearing in mind that the Working Group is currently drafting the new Penitentiary Code, the issue of disciplinary procedure will be addressed in detail throughout drafting process, taking into account the international standards and the recommendations of the CPT.

205. Tuning to the issue of involvement of prison health-care staff in the disciplinary procedure, uniform regulations for imposing "transfer to punishment cell" disciplinary penalty have been defined by Instruction No. E40/7.1-2458 (N E40/7.1-2458) of 8 June 2015 of the Head of the Penitentiary Service. The heads of all the penitentiary institutions were instructed to exclude the practice of making premature record of the doctor's opinion on the state of health and appropriateness of imposing the sanction in the decision with regard to imposing the "transfer to a punishment cell" disciplinary sanction on remand prisoners and convicts at penitentiary institutions.

206. The Instruction also regulates the responsibility of a doctor for exercising daily medical surveillance over a remand prisoner or a convict transferred to a punishment cell. The medical personnel make entries in the respective register about the visits to the punishment cell. However, based on the requirements of the CPT, the heads of all the penitentiary establishments - including the Head of Vanadzor Penitentiary Establishment - were once again strictly warned to duly comply with the requirements of the Instruction of the Head of the Penitentiary Service.

With reference to paragraph 103 of the Report

The Committee called upon the Armenian authorities to stop using “kartzers” cells at Nubarashen Prison immediately; they must not be brought back into operation unless thoroughly refurbished.

The CPT recommended that the Armenian authorities take steps to remedy the existing deficiencies in 20 “kartzers” cells at Armavir Prison.

207. As regards the “kartzers” cells at Nubarashen Penitentiary Establishment, it should be noted that the long-term plan of building a new institution to substitute Nubarashen Penitentiary Establishment was described in detail hereinabove.

208. Turning to the issue of the lack of efficient ventilation of the punishment cells at Armavir Penitentiary Establishment, the Penitentiary Service notes once again that all the cells at the newly built institution and their sanitary facilities are furnished with proper ventilation. The extensive measures taken against insects were described in the paragraph 75 of the Response.

With reference to paragraph 104 of the Report

The Committee called upon the Armenian authorities to ensure that all prisoners placed in kartzers cells at Nubarashen Prison are provided with at least one hour of outdoor exercise every day.

209. At present, all the remand prisoners and convicts held at the penitentiary institutions of the Republic of Armenia, including persons placed in punishment cells, are provided with one hour of outdoor exercise every day as prescribed by domestic legislation.

With reference to paragraph 105 of the Report

The CPT once again called upon the Armenian authorities to ensure that prisoners placed in a “kartzers” are not subjected to a total prohibition on family contacts, and that any restriction on family contacts as a form of punishment is imposed only when the offence relates to such contacts.

210. As regards the mentioned observations and recommendations, "transfer to a punishment cell" disciplinary penalty is prevalently imposed for unlawful behaviour of the remand prisoner or the convict, taking account of the conditions of the violation, the personal characteristics of the remand prisoner or the convict, his/her behaviour before committing the violation and his/her general characteristics. The imposed penalty should be commensurate with the gravity and the nature of the committed violation.

211. Government Decree No. 1543-N reads as follows: "Remand prisoners and convicts **may be transferred to a punishment cell** in the following cases:

- when they place pressure on other remand prisoners or convicts, offend them, attack a representative of the administration of the detention facility or the correctional institution or other persons;
- when they fail to comply with the lawful orders of the representative of the administration of the detention facility or the correctional institution;
- when they keep, use and make prohibited articles, objects, and food;
- when they damage the property of the detention facility or correctional institution.

212. Transferring to a punishment cell as a sanction **is imposed also** on those remand prisoners and convicts whereon more than two disciplinary sanctions have been imposed earlier.

213. Pursuant to the penitentiary legislation: the "transfer to a punishment cell" disciplinary sanction may be imposed for a period of up to 15 days (10 days in case of remand prisoners), therefore it should not be confused with the widespread practice in European countries of "isolation" imposed for safety purposes which can have a duration of up to 1 year. Thus, if the "transfer to a punishment cell" disciplinary sanction also implied isolation for such a long period of time, deprivation of specific rights - including the right to a visit - would be lawfully seen as a limitation of the rights of persons held in confinement. However, a remand prisoner or a convict whereon the "transfer to a punishment cell" disciplinary sanction has been imposed, is not in any way whatsoever deprived of the legal opportunity of exercising the right to monthly short-term and long-term visits after having served the sanction as prescribed by the legislation.

With reference to paragraph 106 of the Report

The Committee recommended that the Armenian authorities develop a policy on the treatment of persons having committed acts of self-harm.

214. In this context, despite the fact that point 77 of Government Decree No. 1543-N read as follows: "The behaviour of a remand prisoner or a convict who has resorted to self-mutilation and has faked an illness out of personal or mercenary motives is considered a violation of the requirements of this Regulation, and the forms of punishment prescribed by the Penitentiary Code of the Republic of Armenia **may be imposed** on him/her", the Penitentiary Service, however, **assures** that persons held in confinement are subjected to disciplinary liability, on grounds of self-harm or self-mutilation, in exceptional cases.

215. The motives for self-mutilation and faking an illness (simulation) are determined based on the opinion of the respective specialist through a psychological or medical examination of the remand prisoner or the convict. In cases of self-harm by remand prisoners or convicts as a mark of protest, the respective subdivisions carry out comprehensive examinations, provide consultations of social, psychological and legal nature in order to exclude future cases of self-harm.

216. In connection with each case of self-harm, the psychologist of the penitentiary establishment performs psychological activities; an opinion is drawn up and handed to the Division of Social, Psychological and Legal Activities of the Penitentiary Service within a three-day period, for the purpose of centralised record-registration and developing efficient measures to exclude cases of self-harm. Investigation is carried out in relation to each incident of self-harm.

217. The above-said attests to the fact that, law-enforcement practice to transfer the cases of self-harm from the disciplinary domain to the domain of psychological and rehabilitation therapy has been firmly formed in the Penitentiary Service. The said is also proved by the fact that during 2015-2016 alone, 4 additional staff positions for psychologists were made available at penitentiary establishments.

c. Contact with the outside world

With reference to paragraph 107 of the Report

The CPT called upon the Armenian authorities to amend the relevant legislation regarding the contact with outside world.

218. In this respect, no maximum number of visits is prescribed by the penitentiary legislation. In particular, both the Penitentiary Code⁷⁶ and the *Law on Holding Arrested and Detained Persons*⁷⁷ provide that remand prisoners and convicts are entitled to a certain number of mandatory visits guaranteed by law which, regardless of their behaviour, are to be ensured by the administration of the penitentiary establishments. Specifically, Article 92 § 2 of the Penitentiary Code, reads as follows: "**At least one** short-term monthly visit for up to 4 hours shall be granted to close relatives or other persons (...)". Article 15 of the *Law on Holding Arrested and Detained Persons* provides for that remand prisoners are granted **at least two** visits for up to 3 hours per month.

219. Furthermore, point 139 of Government Decree No. 1543-N reads as follows: "A detained person or a convict who has a negative record, does not demonstrate law-abiding behaviour, demonstrates an unconscientiously attitude towards work or education, or is subject to punishment shall not be granted more visits than the minimum number of visits prescribed for by the legislation of the Republic of Armenia."

220. Systemic analysis of legal acts attests to the fact that the scope of the right to visit of remand prisoners and convicts held in penitentiary establishments of the Republic of Armenia **is broader** than what is recommended by the CPT (one-hour visits every week), since there is no legislative limitation as to the number of visits granted to convicts or remand prisoners demonstrating lawful behaviour and having positive characteristics.

221. Therefore, granting a remand prisoner or a convict demonstrating law-abiding behaviour more visits than the prescribed minimum number of visits is not the right but the obligation of the administration of the penitentiary establishment. Thus, the recommendation on accumulating the unused visits cannot be implemented, as no specific number of visits is prescribed by the legislation of the Republic of Armenia.

With reference to paragraph 108 of the Report

The CPT reiterated its long-standing recommendation that short-term visiting facilities be modified in all prisons so as to enable prisoners to receive visits under reasonably open conditions. Visits under closed conditions should be exceptional, only if there is a well-founded and reasoned decision following individual assessment of the potential risk posed by a particular prisoner or visitor.

The Committee recommended that steps be taken to remedy the deficiencies at Armavir Prison.

⁷⁶ Article 92 of the Penitentiary Code

⁷⁷ Article 15 of the Law on Holding Arrested and Detained Persons

222. As regards the recommendations presented, it should be noted that in early 2016 - upon the initiative of the Penitentiary Service - both at Armavir and Nubarashen Penitentiary Establishments rooms designated for short-term visits were prepared where visits take place without partitions, i.e. under open conditions. However, in view of the exceptional need for safety, in both institutions there is one room with a separated glass partition. All the rooms of Armavir Penitentiary Establishment designated for long-term visits having signs of wear-and-tear have been renovated.

With reference to paragraph 109 of the Report

The Committee recommended that steps be taken to improve the access to a telephone provided to inmates held at Yerevan-Kentron Prison and align this entitlement to at least that of Nubarashen and Armavir prisons.

223. As regards the recommendation presented in paragraph 109 of the Report, it should be noted that pursuant to point 182 of Government Decree No. 1543-N, in each case, the duration of the phone call cannot exceed 15 minutes. Pursuant to point 183 of the same Regulation, "When the detained person provides sound reasons, the duration of the phone call may be extended for another 10 minutes."

224. Despite the fact that there have been no complaints about the frequency of access to a telephone by persons held in Yerevan-Kentron Penitentiary Institution, taking account of the recommendations of CPT, the responsible persons of the penitentiary institution were instructed to change, from 1 August 2016, the frequency for granting access to a telephone every 10 days by setting a frequency of once a week, and this has been implemented.

d. Complaints and inspection procedures

With reference to paragraph 110 of the Report

The CPT called upon the Armenian authorities to take all necessary steps to ensure that the right of prisoners to lodge confidential complaints is fully respected in practice (this includes the provision of accurate written information to inmates about the complaints procedures), and that complainants are free from any pressure and reprisals. Further, the Committee recommended that an information brochure be supplied to all prisoners upon their arrival, describing in a straightforward manner the main features of the prison's regime, prisoners' rights and duties, complaints procedures, basic legal information, etc. This brochure should be translated into an appropriate range of foreign languages.

The CPT also recommended that the Armenian authorities revise the internal procedures in prisons, so as to ensure that inmates are able, at any time, to place written complaints in locked complaints boxes (located in each accommodation unit) to which only the Director or one of designated Deputies holds the key. All such complaints should be registered centrally within a prison before being allocated to a particular service for consideration. In all cases, internal complaints should be processed expeditiously (with any delays duly justified in writing) and prisoners should be informed within clearly defined time periods of the action taken to address their concerns or of the reasons for considering the complaint not justified. In addition, statistics on the types of internal complaints made should be kept as an indicator to the management of areas of discontent within the prison.

225. Government Decree No. 1543-N contains a whole chapter covering the regulation of the procedure for submitting proposals, requests and complaints by remand prisoners and convicts (Chapter 18), which reads as follows:

- the administration of the detention facility or the correctional institution is obliged to accept all the proposals, requests and complaints submitted by remand prisoners or convicts;
- proposals, requests and complaints received by the administration of the detention facility or the correctional institution are forwarded to the addressees within three working days following their submission, except for cases provided for by law;

the administration of the detention facility or the correctional institution discusses the proposals, requests and complaints addressed to them in the manner and within the time limits prescribed by the legislation of the Republic of Armenia;

- the responses to the proposals, requests and complaints are handed to the remand prisoner or the convict, and, if requested, are attached to his/her personal file;
- proposals, requests and complaints addressed to the administration of the detention facility or the correctional institution are attached to the personal file of the respective remand prisoner or convict;
- the remand prisoner or the convict bears the costs pertaining to the sending of the proposals, requests and complaints, except for cases provided for by law;
- when the remand prisoner or the convict does not have money on his/her private account, the detention facility or the correctional institution may bear these costs with the permission of the head of the detention facility or the correctional institution;
- the representative of the detention facility or the correctional institution, upon taking the proposals, requests and complaints from the remand prisoner or the convict, makes an entry in the respective register on having taken them, and the remand prisoner or the convict also puts his or her signature in relation thereto, according to form No. 9.

226. Apart from the mentioned legal act, the regulations of the Law on Fundamentals of Administrative Action and Administrative Proceedings apply to the consideration of the requests and complaints submitted by remand prisoners and convicts.

227. As regards the proposal of providing the prisoners with information brochures on the internal regulations and their rights and duties when they enter the penitentiary institutions, it should be noted that in quarantine units of all the penitentiary institutions, in the cells of the remand prisoners and convicts, as well as in places accessible to them information posters on the internal regulations, including the procedure for submitting requests and complaints are available. The fact of having been acquainted with the internal regulations, rights and duties is also confirmed by the signatures of persons having been admitted to the penitentiary institutions. Remand prisoners and convicts who are foreign nationals are familiarised with their rights and responsibilities in a language they understand.

228. Conditioned by the need to build reputation of the Penitentiary Service among the convicts, to address in a timely manner the requests, complaints, the issues raised by them, as well as to objectively assess their behaviour, the Penitentiary Service has, since February 2015, carried out studies aimed at efficient introduction of the model of district management in penitentiary institutions.

229. Based on the results of the studies, it has been decided to establish a pilot district management body for a period of six months within the Division of Social, Psychological and Legal Activities of Armavir Penitentiary Institution.

230. After the probation period, a comprehensive analysis of activities of the pilot district management body has been carried out. As a result, the “District Management” model has been introduced in Armavir Penitentiary Institution, based on Order No. 61-N (N 61-Ն) of the Minister of Justice of the Republic of Armenia of 16 February 2016⁷⁸, which set the functions of the head of a district.

⁷⁸ Supplements have been made to Order of the Minister of Justice of the Republic of Armenia No. 386-N (N 368-Ն) of 10 November 2014.

231. Currently, Armavir Penitentiary Institution has 4 positions for the head of a district. Erebuni district (position of the head of the district is filled) operates within Vardashen Penitentiary Institution, and Meghri district (position of the head of the district is filled) operates within Goris Penitentiary Institution.

232. Through the introduction of the institute of district management the penitentiary institutions have had the opportunity to deepen the everyday communication between the managing staff and a specific group of convicts, assess their needs based on more objective criteria, and establish mutual trust.

233. Thus, we think that due to the complete application of the mentioned model of management, there will be no artificial impediments to the expression of will of remand prisoners and convicts.

D. PSYCHIATRIC ESTABLISHMENTS

1. Preliminary remarks

With reference to paragraph 113 of the Report

The Committee recommended that the Armenian authorities make every effort to implement the plans of de-institutionalisation and development of psychiatric care in the community.

234. In respect of the comments made by the CPT regarding the length of hospitalisation, the following must be mentioned. First of all, the length of hospitalisation from 24-30 days is applicable to the patients suffering from acute psychotic disorders, the patients requiring urgent assistance as well as to those who are chronically mentally ill. The persons who have been subjected to compulsory treatment under criminal legislation can be held at the psychiatric establishments much longer. That said, the hospital's internal psychiatric commission performs six-monthly assessments of the patient and can recommend to the court that the patient be discharged.

235. Turning to the issue of developing psychiatric care in the community, it is to be noted that it is an area of focus for the Armenian authorities. High importance is given to promoting de-institutionalisation and to substantially developing alternative services which will also contribute to decreasing the psychiatric establishments' population. In this context, to ameliorate the health care services provided to psychiatric patients, to ensure their quick recovery and reintegration to the community, various measures have been undertaken in the course of recent years.

a) On 2 May 2013 the Government of Armenia approved the *Concept Paper on Provision of Assistance and Alternative Social Services to Persons Suffering from Mental Disorders and the Action Plan (2013-2017) deriving thereof*.⁷⁹

b) On 17 April 2014 the Government of Armenia approved the *Strategy on Maintenance and Improvement of Psychiatric Health in the Republic of Armenia and the Action Plan (2014-2019) deriving thereof*.⁸⁰

c) On 17 December 2015 the Government of Armenia approved the *Procedure for Provision of Care and Alternative Social Services to the Persons Suffering from Mental Disorders Held at Community Care Homes*.⁸¹

d) In May 2015 the Minister of Labour and Social Affairs and the Minister of Healthcare gave a joint Order, by which the *Specialised Commissions for Needs Assessment of the Persons Suffering from Mental Disorders* were established and their *Working Procedure* was approved.

⁷⁹ Protocol Resolution Nos. 17 and 36

⁸⁰ Protocol Resolution No. 15

⁸¹ Government Decree No. 1533-N (N 1533-Ն) of 17 December 2015

236. As it has been mentioned in the Government Preliminary Response submitted to the CPT on 20 January 2016, it was planned to introduce community care homes (each with a capacity of 16 patients) in 4 communities of the Republic of Armenia, including the city of Gyumri. Correspondingly, the patients of Gyumri Mental Health Centre whose health condition is stable and who do not require active treatment, after undergoing corresponding psychiatric examination (Camberwell Assessment of Need Short Appraisal Schedule (CANSAS questionnaire)) will be accommodated in community care homes.

237. In May 2016, the first community care home (with a capacity of 16 patients) was established in the city of Spitak. A psychologist, social worker and an art therapist work there. A greater emphasis is given to engaging the persons accommodated there in purposeful activities, mainly, by work and art therapy. The process is ongoing and at the same time, it is envisaged to introduce other models of alternative services, such as community day centres, as well as to further contribute to capacity building of existing services.

2. Patients' living conditions

With reference to paragraph 118 of the Report

The Committee wished to be informed about the outcome of the investigation into the tragic death of a female patient held at the Forensic Psychiatric Unit of Nubarashen Psychiatric Medical Centre.

238. All the necessary information and materials have been submitted to the CPT⁸².

With reference to paragraph 120 of the Report

*The Committee wished to receive, in due course, information on whether the project For Support to the Mental Health Service Reforms in Armenia has been approved and its implementation started.*⁸³

In the meantime, the Committee recommended that the Armenian authorities, as a matter of urgency:

- *provide bedridden patients at Nubarashen Psychiatric Medical Centre with custom-made plastic covered mattresses, as well as diapers, in sufficient numbers;*
- *review the environment of the dormitories in order to reduce ligature risks and improve their safety for patients presenting a suicide risk;*
- *provide female patients from Ward 7 with appropriate segregated accommodation that would ensure their privacy, dignity and security;*
- *provide patients from Ward 6 with an appropriate facility for outdoor exercise.*

239. With reference to the urgent recommendations made by the CPT, the following shall be mentioned. 300 mattresses have been acquired by the Nubarashen Psychiatric Medical Centre. At present, all the patients held at this Medical Centre are provided with mattresses, which are covered by plastic⁸⁴, as well as diapers.

240. The patients presenting suicide risks are under constant supervision. The nurses and feldshers on duty report on their conditions every day and the records are made in the respective journal by the doctor on duty. In addition, it is planned to reduce ligature risks in the course of refurbishment works.

241. As to the recommendation to provide female patients from Ward 7 with appropriate segregated accommodation, they have been transferred to another more comfortable and large room.

242. It is planned to enlarge the outdoor exercise yard of Forensic Psychiatric Ward 6 during refurbishment works. Pending that, a bench has already been installed in the yard.

⁸² See Annex 3

⁸³ The project For Support to the Mental Health Service Reforms in Armenia was not approved.

⁸⁴ The mattresses acquired are not custom- made plastic covered mattresses.

With reference to paragraph 122 of the Report

The Committee called upon the Armenian authorities to take the necessary measures to improve the living conditions at Gyumri Mental Health Centre, and in particular to ensure that:

- *occupancy levels in the patients' dormitories are reduced;*
- *conditions in the rooms are conducive to the treatment and welfare of the patients, in the light of the above remarks;*
- *all patients are provided with personal lockable space in which they can keep their belongings;*
- *incontinent patients are provided with custom-made plastic covered mattresses, as well as diapers, in sufficient numbers;*
- *patients' access to a shower is not restricted;*
- *every patient is provided with basic personal hygiene items (soap, toothbrush and toothpaste, towel, sanitary towels, etc.).*

243. It is to be noted, that the implementation of the first three recommendations will be feasible if relevant financial means are acquired and refurbishment works are carried out.

244. Turning to the recommendation that all incontinent patients be provided with custom-made plastic covered mattresses, as well as diapers, the following must be mentioned. At present, all the incontinent patients held at Gyumri Mental Health Centre are provided with diapers as well as mattresses, which are covered by plastic⁸⁵.

245. Patients' access to a shower is not restricted. The number of showers is limited. More specifically, there are only 2 in each ward, due to the space limitations.

246. As to the provision of basic personal hygiene items, every patient is provided with the minimum personal hygiene items (soap, toothbrush, toothpaste, towel, sanitary towels) and this fact is recorded in the respective journals.

4. Staff and treatment

With reference to paragraph 126 of the Report

The Committee recommended that the Armenian authorities take necessary measures to:

- *increase the number of ward-based staff at both establishments;*
- *ensure the availability of newer generation anti-psychotic and anti-depressant medication;*
- *develop, at both centres, a range of therapeutic options and involve patients in rehabilitative psycho-social activities, in order to prepare them for more independent living and/or return to their families; psychological and occupational therapy should be an important part of the long-term treatment programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and improving self-image. It is axiomatic that this will require the recruitment of more specialists qualified to provide therapeutic and rehabilitation activities (psychologists, occupational therapists, and social workers) in the two Centres; further, there needs to be a much fuller and more multi-disciplinary clinical team treatment approach, including multi-disciplinary clinical meetings where patients cases can be regularly discussed;*
- *as applicable, in all psychiatric establishments in Armenia, draw up an individual written treatment plan for each patient (taking into account the special needs of acute, long-term and forensic patients), including the diagnosis, the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be involved in the drafting of their individual treatment plans and be informed of their progress.*

The Committee also recommended that regular blood tests be rendered mandatory at Gyumri Mental Health Centre (and, as appropriate, in all other psychiatric establishments in Armenia) whenever Clozapine is administered to a patient.

⁸⁵ The mattresses acquired are not custom- made plastic covered mattresses.

247. It is to be noted that measures are being taken - to the extent possible - to increase the number of staff as well as employ staff of appropriate clinical disciplines. In this context, a social worker and a psychologist have been hired to Gyumri Mental Health Centre.

248. To ensure the availability of newer generation anti-psychotic and anti-depressant medication, the Ministry of Healthcare cooperates with *Armenia-Artsakh Foundation*. In the framework of this cooperation, anti-psychotic and anti-depressant medication is imported from the US every month. Besides, newer generation medication (Olanzapine) is manufactured in Armenia and correspondingly used at the psychiatric establishments.

249. Turning to the issue of individual written treatment plans, each patient is provided with individualised approach and treatment. However, it will be possible to fully address the issue mentioned by the CPT in the course of time and in parallel with increasing the staffing levels.

250. As to the concerns raised by the CPT that there were no formal instructions as regards carrying out regular blood tests at Gyumri Mental Health Centre whenever Clozapine was administered to patients the following is to be mentioned. Based on the recommendations of the CPT, it has been instructed to perform mandatory blood tests whenever Clozapine is administered to patients.

With reference to paragraph 127 of the Report

The CPT recommended that the Armenian authorities take immediate steps to ensure that all patients at Nubarashen Psychiatric Medical Centre and Gyumri Mental Health Centre benefit from unrestricted access to outdoor exercise during the day unless treatment activities require them to be present on the ward. Additional restrictions on access to outdoor exercise for involuntarily admitted patients should only be applied to those patients who represent a danger to themselves or others, and only for as long as that danger persists.

251. According to Article 6 § 3 (15) of the *Law on Psychiatric Assistance* (hereinafter, the LPA) the patients undergoing treatment at psychiatric establishments are entitled to outdoor exercise. Furthermore, § 7 of the same article prescribes that this right can be restricted only in accordance to law or based on the decision of the doctor in charge or the psychiatric commission, if the exercise of this right represents a danger to the patient or others or creates obstacles for the medical examination or expertise. It is imperatively stipulated that the decisions restricting the right to outdoor exercise shall be reasoned and registered in medical documents. The patient concerned shall be notified as well and the respective record shall be made in the medical documents. When the grounds for restricting this right do not persist, the patient shall be notified thereof and the corresponding record shall be made.

252. It is to be noted that as prescribed by the LPA, immediately after the hospitalisation the individual is notified about his/her rights and obligations, the information on the purposes and reasons for his/her stay is provided and the corresponding records are made in the medical documents. Moreover, the *Information Note on the Individual's Rights Suffering from Mental Disorders* - which also prescribes the right to outdoor exercise - is handed over to the individual hospitalised and his/her rights are explained in a language and manner understandable for him/her.

253. Turning to the practical application of the regulatory guarantees, all the psychiatric establishments have been instructed to strictly comply with the legislation and ensure that unrestricted access to outdoor exercise is provided.

With reference to paragraphs 129 and 130 of the Report

The Committee recommended that the Armenian authorities take measures to strengthen the implementation of the Guidelines for Applying Physical Restraint to Individuals with Mental Disorders in Organisations Providing Psychiatric Medical Assistance and Service in both Centres visited (and, more generally, in all psychiatric establishments in Armenia) and ensure that they include the points mentioned in paragraph 129 of the Report.

The implementation of the above-mentioned guidelines should be accompanied by practical training on approved control and restraint techniques, which must involve all staff concerned (doctors, nurses, orderlies, etc.) and be regularly updated.

The Committee recommended that the Armenian authorities take necessary measures to ensure that the principles mentioned in paragraph 129 of the Report are respected when deciding to administer chemical restraint to a patient. Further, a dedicated register on the use of chemical restraint should be created at all psychiatric establishments.

254. Order No. 691-A (N 691-U) of 3 May 2010 of the Minister of Healthcare on *Establishing Guidelines for Applying Physical Restraint to Individuals with Mental Disorders in Organisations Providing Psychiatric Medical Assistance and Service* was abolished. Based on the recommendations made by the CPT in the Report, the Minister of Healthcare gave a new order on 23 August 2016.⁸⁶ In contrast to the previous order, the new order specifies that the Guidelines prescribed shall be applied when resorting either to measures of physical/mechanical or chemical restraint. In line with the CPT recommendations made, the order stipulates: (i) the measure of restraint should only be used as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail to satisfactorily contain that risk; (ii) the use of measures of restraint should never amount to inhuman or degrading treatment and should never be used as a punishment; (iii) the devices used for mechanical restraint shall not cause harm to patients; (iv) in 24 hours the duration of the application of means of mechanical restraint should not exceed 4 hours for individuals above 18 and 2 hours – for individuals from 9 to 17 years old; (v) a patient subject either to mechanical or chemical restraint should not be exposed to other patients; (vi) any resort to means of restraint should always be either expressly ordered by a doctor in charge, in case of the absence of the latter - by the head of the medical unit, during non working hours – by the doctor on duty. Whether the decision is made by the head of the medical unit or the doctor on duty, it shall be immediately brought to the attention of the doctor in charge; (vii) every instance of the use and termination of means of restraint - whether physical/mechanical or chemical - of a patient must be duly justified and recorded in a specific register established for that purpose and in the individual's file; (viii) the entry should include the reasons for applying/terminating the measure of restraint, the duration thereof, the data of the individuals who ordered it, and an account of any injuries sustained by the person or staff; (ix) whenever a patient is subjected to means of restraint, a member of staff should be continuously present; (x) the patient subjected to measure of restraint shall be examined by a doctor no later than every hour and respective entry shall be made in the register; (xi) the decision on the prolongation of means of restraint - whether physical/mechanical or chemical - shall be made with the head of the psychiatric establishment; (xii) once means of restraint have been removed, a debriefing of the patient should take place, reducing the psychological trauma of the experience.

255. These Guidelines are mandatory and shall be applied by the staff employed at all the psychiatric establishments of Armenia. Furthermore, to ensure that these Guidelines are well understood and to strengthen the implementation thereof, it is envisaged to organise practical trainings on restraint techniques which will involve all staff concerned.

⁸⁶ Order No. 2636 - A (N 2636 - U) of 23 August 2016 of the Minister of Healthcare on *Establishing Guidelines for Applying Measures of Physical and Chemical Restraint to Individuals with Mental Disorders in Organisations Providing Psychiatric Medical Assistance and Service*

256. With reference to the recommendation to take necessary measures to ensure that the principles mentioned in paragraph 129 of the Report are respected when deciding to administer chemical restraint to a patient, the following should be mentioned. As stated hereinabove the new Guidelines are applicable when resorting to any type of means of restraint physical/ mechanical or chemical. Further, a dedicated register on the use of chemical restraint was created based on the Order of the Minister of Healthcare.⁸⁷

With reference to paragraph 131 of the Report

The Committee reiterated its recommendations that the Armenian authorities take measures to ensure that:

- *all compulsory placements of criminally irresponsible patients are subjected to regular court review;*

- *forensic patients are systematically informed of the decision of the psychiatric commission and the court decision (and given a copy of these documents), as well as of the legal remedies available to challenge them.*

In addition, the Committee wished to be informed whether the current review procedure provides for a possibility for the patient to ask for an independent opinion by an outside psychiatrist, and whether judges routinely request such opinions in the context of review of the compulsory placement measure.

257. As mentioned in paragraph 131 of the Report, the placement for persons subject to a compulsory treatment under the criminal legislation 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. Therefore, the compulsory placements of criminally irresponsible patients are regularly reviewed by the court.

258. In addition, at present draft amendments to the LPA are pending before the National Assembly. Accordingly, Article 22 § 4 of the draft prescribes that the doctor-psychiatrist - in charge of compulsory treatment of an individual under the criminal legislation (carried out at hospital) - shall present to the hospital's internal psychiatric commission a professional written opinion on the state of the patient at least once in 6 months. The opinion is presented to address the question of continuing the application of medical enforcement measure or changing it or discharging the patient. After receiving the professional opinion and considering it, the hospital's internal psychiatric commission - in 10 working days - gives a conclusion on continuing the application of medical enforcement measure or changing it or discharging the patient. Furthermore, Article 22 § 5 explicitly stipulates that after the hospital's internal commission gives the corresponding conclusion, the hospital's administration - within 10 working days - shall file a motion before the court on continuing the application of medical enforcement measure or terminating it. Therefore, the legislative guarantees stipulated by the draft will strengthen the existing regulation and will ensure that all compulsory placements of criminally irresponsible patients be subjected to regular court review.

⁸⁷ The form of the register was approved by Order No. 2636 - A (N 2636 - U) of 23 August 2016 of the Minister of Healthcare.

259. Turning to the CPT's request to be informed whether the current review procedure provides for a possibility for the patient to ask for an independent opinion by an outside psychiatrist, the following is to be noted. According to Article 6 § 3 (13) of the LPA, the patient is entitled to request that the psychiatrist of his/her choice participate in the procedure carried out by the hospital's psychiatric commission. Furthermore, point 13 of the *Information Note on the Individual's Rights Suffering from Mental Disorders*⁸⁸ reads as follows: "[The patient] is entitled to request that the psychiatrist of his/her choice participate in the procedure carried out by (...) the hospital's psychiatric commission. Based on [the] written or oral request the head of the psychiatric establishment includes the professional in the composition of the commission - getting the consent of the latter in 2 days after receiving the request".

With reference to paragraph 132 of the Report

The Committee called upon the Armenian authorities to complete the LPA accordingly; periodic review of involuntary civil hospitalisation should take place at least once every six months.

260. The recommendation of the CPT will be fully addressed, once the amendments to the LPA enter into force. More specifically, Article 20 § 3 provides that the doctor-psychiatrist - in charge of involuntary psychiatric treatment (carried out at hospital) of an individual suffering from mental disorder - shall present to the hospital's internal psychiatric commission a professional written opinion on the state of the patient at least once a month. The opinion is presented to address the question of continuing the treatment or discharging the patient. After receiving the professional opinion and considering it, the hospital's internal psychiatric commission - in 5 business days - gives a conclusion on continuing the treatment or discharging the patient. In addition, Article 20 § 4 explicitly stipulates that the duration of involuntary civil hospitalisation shall not exceed the term of 6 months. Whether this term is to be expired and the grounds for continuing the treatment persist, the hospital's administration - at least 15 days prior to expiry of the term of 6 months - shall apply to the court to continue the treatment.

With reference to paragraphs 133 and 134 of the Report

The Committee reiterated its long-standing recommendation that the Armenian authorities take steps to ensure that the legal provisions of the LPA on involuntary civil hospitalisation are fully implemented in practice. The Armenian authorities must also ensure that proper information and training is given, as a matter of priority, to all structures and persons involved (in particular, psychiatrists, hospital management and judges) on the legal provisions pertaining to civil involuntary placement of patients in psychiatric hospitals in Armenia. Further, an independent review (of a judicial nature) of the implementation of the above-mentioned provisions should be carried out.

Persons admitted to psychiatric establishments should be provided with full, clear and accurate information, including on their right to consent or not to consent to hospitalisation, on the possibility to withdraw their consent subsequently and, for as long as they are formally voluntary, their right to leave the establishment at any moment. Further, as regards more specifically Nubarashen Psychiatric Medical Centre and Gyumri Mental Health Centre, the CPT recommended that the legal status of all patients currently considered as voluntary be urgently reviewed by an independent external authority.

⁸⁸ Established by Order No.14-N (N 14-Ն) of Minister of Healthcare on 29 July 2010

The CPT expressed its view that consent to hospitalisation and consent to treatment are two separate issues and patients should be requested to express their position on both of these issues separately. Psychiatric patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. Every patient, whether voluntary or involuntary, should be informed about the intended treatment. Further, every patient capable of discernment should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon the law and only relate to clearly and strictly defined exceptional circumstances.

The Committee called upon the Armenian authorities to take appropriate steps to ensure that the above-mentioned precepts are effectively implemented at Nubarashen Psychiatric Medical Centre and Gyumri Mental Health Centre, as well as in all other psychiatric establishments in Armenia. The relevant legal provisions should be amended accordingly.

261. As prescribed by the draft amendments to the LPA, immediately after the hospitalisation the individual or his/her legal representative (if there is such) is notified about his/her rights, the restrictions imposed thereof, obligations, the nature of the mental disorder, the purpose of the treatment offered, methodology and duration thereof, as well as about the side effects and the results pursued. Furthermore, information is provided regarding the possible consequences, if the individual refuses to undergo treatment and the respective record is made in the medical documents. It is to be noted as well that according to the draft respective *Information Note on the Individual's Rights Suffering from Mental Disorders* shall be handed over to the individual. The *Information Note* shall be made in 2 copies which shall be signed by the individual suffering from mental disorder or his/her legal representative (if there is such) and by the person responsible for notification. Whether the person is not notified because of his/her health condition, he/she shall be notified about his/her rights, the restrictions imposed thereof and obligations after improvement of his/her state of health and the respective record shall be made in the medical document. It should be mentioned that similar, but more general regulations are prescribed by the existing LPA.

262. Turning to the issues of hospitalisation and treatment, all the voluntary patients who give their consent to hospitalisation also consent separately to treatment. Therefore, the patients are requested to express their position on both of these issues separately. Furthermore, the patient receives the information regarding the treatment from the doctor in charge and every patient capable of discernment can refuse treatment or any other medical intervention.

With reference to paragraph 135 of the Report

The Committee wished to receive information on the number of cases in which ex officio legal assistance had been provided to involuntary psychiatric patients in the course of 2014 and 2015.

263. In the course of 2014 *pro bono* legal assistance was provided to 6 individuals suffering from mental disorders and under treatment at psychiatric establishments. In 2015 this number was 12.