



REPUBLIC OF ARMENIA
HUMAN RIGHTS DEFENDER



ANNUAL REPORT

ON THE ACTIVITIES OF THE HUMAN RIGHTS DEFENDER
OF THE REPUBLIC OF ARMENIA
AS A NATIONAL PREVENTIVE MECHANISM
FOR THE YEAR 2023

YEREVAN 2024

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INTRODUCTION

The Human Rights Defender of the Republic of Armenia is vested with the status of the National Preventive Mechanism against Torture.

The activities of the Human Rights Defender with the status of the National Preventive Mechanism are aimed at protecting every person in the country from torture, degrading or inhuman treatment or punishment, which are collectively referred to as ill-treatment.

After the ratification of the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984 (hereinafter referred to as the Optional Protocol) adopted on December 18, 2002, the RA Law "On the Human Rights Defender" of October 21, 2003 was supplemented with Article 6.1, according to which the RA Human Rights Defender has been recognized as an independent national preventive mechanism since 2008, without clearly defining the status of the Human Rights Defender in this regard, the guarantees for ensuring that status, the scope of places of deprivation of liberty, and cooperation with civil society.

Due to the constitutional amendments of December 6, 2015, on December 16, 2016, the RA National Assembly adopted the RA Constitutional Law "On the Human Rights Defender" (hereinafter referred to as the Constitutional Law), Article 2, Part 2 of which vested the Human Rights Defender with the status of a national preventive mechanism established by the Optional Protocol.

Article 28 of the Constitutional Law already defines both the powers of the Defender as a national preventive mechanism and provides a clear scope of places of deprivation of liberty. According to Article 27 of the mentioned law, the purpose of the Defender's activities with the status of a national preventive mechanism is to prevent torture and other cruel, inhuman or degrading treatment in places of deprivation of liberty.

The issue is particularly sensitive as it relates to places where people are deprived of their liberty (penitentiary institutions, places of detention, psychiatric organizations, etc.) and are held, as a rule, against their will. These are special places where people rely on the care and protection of the administrations, which requires special attention and professional approaches to work.

The activities of the Defender with the status of a national preventive mechanism are carried out in strict accordance with the principles of impartial, apolitical and professional work, in close cooperation with public bodies, civil society and international partners. The implementation of the functions of the national preventive mechanism is ensured by the Department for the Prevention of Torture and Ill-Treatment of the Staff of the Human Rights Defender, as well as by independent experts of the national preventive mechanism. The main principles and directions of the activity are presented in the following narrative of this report.

Cooperation with civil society is an integral part of the activities of the National Preventive Mechanism. This is primarily manifested in the work of the Advisory Council for the Prevention of Torture adjunct to the Human Rights Defender, which includes representatives of public organizations specializing in the field of prevention of torture and ill-treatment and independent experts in the same field.

During 2020-2023, Armenia faced a number of serious challenges: wars unleashed by Azerbaijan accompanied by atrocities and massive destruction of civilian settlements, forced displacement of the

ethnic Armenian population from Nagorno-Karabakh, which was often accompanied by various manifestations of ill-treatment.

In 2023, the rights to life, health, property and other vital rights of the peaceful population of the Republic of Armenia continued to be grossly violated. The policy of propaganda of anti-Armenianism and hostility in Azerbaijan on ethnic grounds, which has been conducted for years, has led to torture and cruel treatment of Armenian servicemen and civilians, which has had a direct impact on the overall state of human rights protection in the Republic of Armenia, creating a number of challenges related to the protection of the rights of these persons and their families.

Thanks to the high bar of institutional establishment and professional qualities, the functions of the National Preventive Mechanism in 2023 were carried out with high vigilance and responsibility, as well as with the maximum application of professional approaches. The mentioned approach and its results are respectively presented in the next chapters of this report.

CHAPTER 1. THE MAIN PRINCIPLES OF THE NATIONAL PREVENTIVE MECHANISM AND THE STRATEGIC DIRECTIONS OF PROGRESS

Since the entry into force of the Constitutional Law of the Republic of Armenia "On the Human Rights Defender", an effective mechanism for complementing the functions of the Human Rights Defender as a national preventive mechanism and an ombudsman has been adopted on the basis of internationally accepted principles.

Various subdivisions of the Human Rights Defender's Office carry out discussions of individual complaints and issues on their initiative, which allows to identify problems related to specific situations in places of deprivation of liberty, while the monitoring is carried out within the framework of the mandate of the national preventive mechanism allows to study the entire system, regardless of the presence of complaints.

Issues of a systemic nature identified through individual complaints are brought to the attention of the National Preventive Mechanism subdivision, and vice versa, individual cases identified during monitoring are transferred to the subdivisions considering them, providing a flexible system of information exchange.

To ensure the implementation of the functions of the National Preventive Mechanism, the Department for the Prevention of Torture and Ill-Treatment operates as a separate subdivision within the Staff of the Human Rights Defender.

Lawyers, as well as doctors, are involved in the work of the Department. To demonstrate the necessary professional approaches in the scientific field in the work of the National Preventive Mechanism, the Human Rights Defender has also involved independent specialists in the activities of the National Preventive Mechanism - representatives of the scientific field and (or) public organizations who have the status of an expert of the National Preventive Mechanism (psychologist, doctor).

It should be noted that during 2023, the subdivision implementing the functions of the National Preventive Mechanism maintained constant contact with partner state bodies. The work was primarily manifested in close working cooperation. Effective discussions on various issues took place with representatives of the RA Ministry of Internal Affairs, the RA Ministry of Health, the RA Ministry of Labor and Social Affairs, the RA Ministry of Justice, the Penitentiary Service of the RA Ministry of Justice, the "Penitentiary Medicine Center" SNCO of the RA Ministry of Health, the RA Prosecutor's Office, as well as the RA Supreme Judicial Council.

During the visits, the representatives of the National Preventive Mechanism posted informational posters about the mandate and activities of the National Preventive Mechanism in places of deprivation of liberty, and informational leaflets were provided to persons deprived of their liberty.

The results of visits to places of deprivation of liberty, as well as the studies and analyses of the National Preventive Mechanism, together with recommendations aimed at solving the recorded problems, were submitted to the competent state bodies.

During 2023, 69 monitoring visits were made by the National Preventive Mechanism, of which 27 were periodic and 42 were ad hoc, including 4 thematic visits. 27 periodic visits were made to: Police departments and places of detention for detained persons (11 visits), penitentiary institutions (3 visits), psychiatric organizations (6 visits), and courthouse holding cells for persons deprived of their liberty in courts (7 visits). The 4 thematic visits related to the issue of heating, drinking water and ventilation in

"Armavir" penitentiary institution, Vardenis Neuropsychological Boarding House - to study the situation created after the recorded case of ill-treatment, "Dzorak" care centre for persons with mental health problems (hereinafter referred to as "Dzorak" care centre) - in connection with the difficulties of being located in the same building with kindergarten No. 34 and organizing the care of persons with mental health problems, as well as Sevan and Avan mental health centres - to study the issues of ensuring the rights of persons with mental health problems displaced from Nagorno-Karabakh and kept in these institutions.

The visits of the National Preventive Mechanism are of fundamental importance and can even last more than one day in one institution.

To develop the capacities of the Human Rights Defender's institution, including the National Preventive Mechanism, measures are periodically taken to develop the professional skills of the representatives of the Defender's staff and experts of the National Preventive Mechanism.

During 2023, representatives of the National Preventive Mechanism participated in various events and professional discussions with representatives of state bodies and civil society, both in person and remotely (via video communication). A number of internal discussions were held in the Defender's Office in order to develop the professional knowledge and skills of the staff members.

In November 2023, Human Rights Defender Anahit Manasyan participated in the 14th International Conference of the Global Alliance of National Human Rights Institutions (GANHRI) in Copenhagen, Kingdom of Denmark, entitled "Torture and Other Ill-Treatment: The Role of National Human Rights Institutions".

In November 2023, the sixth regional meeting on the prevention of torture of representatives of National Preventive Mechanisms and civil society in the OSCE region was held in Copenhagen, Kingdom of Denmark, organized by the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Association for the Prevention of Torture (APT). Laura Gasparyan, Head of the Department for the Prevention of Torture and Ill-Treatment, coordinator of the implementation of the National Preventive Mechanism of the Staff of the Human Rights Defender of the Republic of Armenia, presented to international partners the experience of the Human Rights Defender of the Republic of Armenia as a National Preventive Mechanism within the framework of this meeting.



The staff of the National Preventive Mechanism



"Dzorak" Care Center for Persons with Mental Health Problems



Workshop on the issues recorded during the monitoring visits to the "Dzorak Care Center for Persons with Mental Health Problems" SNCO and "Yerevan N 34 preeducational institution" CNCO

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

The work of the National Preventive Mechanism involves cooperation and stable communication with international partners. Within the framework of cooperation with international partners, translations of the annual and ad hoc reports of the Human Rights Defender as a National Preventive Mechanism are sent to the UN Committee against Torture, the Subcommittee on Prevention of Torture, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the European Court of Human Rights, as well as other international organizations in the field, diplomatic missions, international public organizations, etc.

The Human Rights Defender also attaches importance to international cooperation in terms of introducing global standards for ensuring human rights and eliminating torture and other forms of ill-treatment into national legislation and law enforcement practice.

On June 26, 2023, the subdivision of the Human Rights Defender's Office implementing the functions of the National Preventive Mechanism organised a discussion dedicated to the "International Day in Support of Victims of Torture". In addition to representatives and experts of the Human Rights

Defender's Office, the discussion was also attended by high-level representatives of international partner organizations, the head of the office of the representative of the Prime Minister of the Republic of Armenia on international legal issues, representatives of the RA Investigative Committee, the RA Prosecutor General's Office, the RA National Security Service, the Ministries of Labor and Social Affairs, Health and Justice, the "Penitentiary Medicine Center" SNCO, as well as representatives of public monitoring groups and civil society. During the event, the following topics were discussed: investigation of cases of torture and ill-treatment in the Republic of Armenia and support for victims, ECHR judgments against Armenia, as well as cases of torture of Armenian prisoners of war and civilians during and after the hostilities unleashed by Azerbaijan in 2020-2023, related international legal processes and issues of state support provided to torture survivors and their families.

Considering the crucial goal of preventing torture and ill-treatment, as well as violations of the rights of persons held in places of deprivation of liberty, on December 21, 2023, within the framework of events dedicated to International Human Rights Day, the Human Rights Defender's Office organized a workshop entitled "Ensuring the Rights of Persons with Mental Health Problems in Places of Deprivation of Liberty" within the framework of the "Accountable Institutions and Human Rights Protection in Armenia" project funded by the European Union and UNDP, UNICEF, the UN Population Fund and the OSCE. In addition to representatives and experts of the Human Rights Defender's Office, representatives of various state authorities, as well as representatives of public monitoring groups and civil society also participated in the workshop. During the event, issues related to the process of voluntary or involuntary treatment of persons in psychiatric organizations and judicial practice, problems of the rights of incapacitated persons, as well as issues related to psychiatric assistance and services in penitentiary institutions were discussed.



Workshop entitled "Ensuring the Rights of Persons with Mental Health Problems in Places of Deprivation of Liberty"



Discussion dedicated to the "International Day in Support of Victims of Torture"



Workshop entitled "Ensuring the Rights of Persons with Mental Health Problems in Places of Deprivation of Liberty"

To enhance the capabilities of the Human Rights Defender's institution, including the National Preventive Mechanism, measures were periodically taken to develop the professional skills of the representatives of the Defender's Office and experts of the National Preventive Mechanism.

In September and December 2023, within the framework of cooperation with the Raoul Wallenberg Institute of Human Rights and Humanitarian Law, the Human Rights Defender's Office organised working discussions on the development of checklists used during monitoring visits carried

out by the National Preventive Mechanism in penitentiary institutions and their compliance with international human rights standards.

On September 19, 2023, as a result of the aggression of the Azerbaijani armed forces, more than one hundred thousand ethnic Armenians were forcibly displaced from Nagorno-Karabakh to the Republic of Armenia.

In the context of the protection of the rights of forcibly displaced persons, the results of the fact-finding work carried out by the Human Rights Defender and the Defender's Office were summarised in a preliminary ad hoc report¹. The report presents recommendations related to the protection of the rights of persons who have become victims of torture and other forms of ill-treatment as a result of these events, as well as their family members. Information about the cases was collected using the methodology characteristic of the mandate of human rights protection institutions and was presented with specific evidence. Photographs containing scenes of torture, desecration of bodies, and mutilation documented in the report were presented in a confidential format to international partner organizations and other actors involved in human rights protection issues, as an attachment to the report.

According to the information provided by the RA Investigative Committee, on September 19-20, 2023, as a result of Azerbaijani aggression, the tortured bodies of 12 servicemen and 2 civilians were found. Information about cases of death, desecration of bodies, dismemberment, and other incidents among civilians, including children and women, as a result of Azerbaijani aggression, was documented (a child's severed hand, a man's ears, a desecrated woman's body, etc.). Within the scope of issues related to the mandate of the Human Rights Defender, they were also presented in the ad hoc report of the RA Human Rights Defender and made available to international organisations and stakeholders with a human rights protection mandate, as well as to competent state bodies.

The ad hoc report also presented the collected facts related to other manifestations of ill-treatment. It recorded cases of loss of consciousness due to hunger among forcibly displaced persons, including children, the elderly, and pregnant women, as well as various manifestations of degrading treatment towards ethnic Armenians. The report also includes the results of monitoring of Azerbaijani media and social networks, where numerous posts by Azerbaijani users targeting the Armenian population on the basis of ethnic origin, preaching and justifying hatred and violence. Such an intolerant attitude of Azerbaijani society is a consequence and evidence of the state-level policy of anti-Armenianism pursued in Azerbaijan.

¹ See on <https://ombuds.am/images/files/e76a3b67b4a56fadb3271705e33ecec5.pdf> as of 29.03.2024.



NPM capacity building event

The Human Rights Defender's Office also conducted monitoring on social networks, as a result of which numerous video and audio recordings were found that directly reflect war crimes and indescribable atrocities committed by the Azerbaijani armed forces against Armenian servicemen and civilians on ethnic grounds. Videos and photos have also been widely disseminated in the Azerbaijani media space, accompanied by insults containing hatred and hostility towards Armenians, calls to kill Armenians, and deep-seated hatred towards them.

The received materials were studied and evaluated using a special methodology to verify the reliability of the information.

The Human Rights Defender and the Defender's representatives periodically met with persons displaced from Nagorno-Karabakh. During private interviews, the latter presented the deprivations they suffered during the blockade of the Lachin corridor, as well as various manifestations of ill-treatment by representatives of the Azerbaijani armed forces as a result of Azerbaijani aggression and during the forced displacement.

The information collected during the private interviews was also summarized in the ad hoc report of the Human Rights Defender "On the results of fact-finding work in the registration sites of forcibly displaced persons from Nagorno-Karabakh".

The report summarises the recommendations presented by the Human Rights Defender to the responsible state bodies in order to solve the documented problems in the context of the protection of the rights of forcibly displaced persons.

The Council of Europe Commissioner for Human Rights, Dunja Mijatović, also referred to the Defender's report regarding the possible cases of violence, torture and mutilation described in her concluding observations² on her visit from October 16-23, 2023.

² See on <http://surl.li/revje> as of 29.03.2024.

CHAPTER 3. PSYCHIATRIC ORGANIZATIONS

The Human Rights Defender's continuous studies as a national preventive mechanism show that mental health care in Armenia continues to be focused on long-term hospital treatment. As a result, a large number of patients are kept in psychiatric organisations and are often deprived of the opportunity to raise their issues independently due to their health problems. Various restrictions on the exercise of their rights are often applied to them. Given this, monitoring the state of ensuring the rights of persons with mental health problems is one of the main directions of the Human Rights Defender's work as a national preventive mechanism.

During 2023, monitoring visits were made to the following organizations: "Avan Mental Health Center" CJSC of the RA Ministry of Health, "Sevan Mental Health Center" CJSC of the RA Ministry of Health, "Syunik Regional Psychiatric-Neurological Dispensary" CJSC, "Armash Health Center Named After Academician A. Hayriyan" CJSC of the RA Ararat Regional Administration, as well as visits were made as needed to the "Vardenis Neuropsychological Boarding House" SNCO of the RA Ministry of Labor and Social Affairs and the "Dzorak Care Center for Persons with Mental Health Problems" SNCO.

During the monitoring visits³ to psychiatric organizations in 2023, both previously recorded issues and the steps taken to address them were studied, as well as new issues were identified.

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

The staff of psychiatric organizations cooperated willingly and actively with the representatives of the Human Rights Defender in carrying out their duties. This also applies to collaborative work during non-working hours and days. This principle of cooperation has made it possible to ensure a comprehensive approach, including taking into account the observations of psychiatric organization employees regarding the complexities and issues of their work.

This chapter presents the problems recorded during 2023 regarding the protection of the rights of persons with mental health problems in psychiatric organizations and proposals aimed at solving them.

3.1. Issues Related to Mental Health Care Organization: The Need for Deinstitutionalization, Unified Policy, and the Pay-For-Service Nature of Psychiatric Services

When addressing issues in the mental health care sector, it's important to note that the decentralized departmental subordination of psychiatric organizations continues to be problematic. The Human Rights Defender of Armenia has pointed this out in the ad hoc reports⁴ on "Ensuring the Rights of Persons with Mental Health Problems in Psychiatric Organizations" in 2018 and 2022.

Under decentralized departmental subordination, cooperation between competent bodies is not fully implemented, resulting in gaps in psychiatric services and oversight of compliance with legal

³ In the composition of this report, for the purpose of ensuring accessibility, the names of psychiatric organizations are used without indicating their departmental subordination and organizational-legal form.

⁴ See on <https://ombuds.am/images/files/0a236e05dd43675f5daf520f89688f47.pdf> and <https://ombuds.am/images/files/7fc26e97e3c21aaacac56743c7b4aef7.pdf> as of 29.03.2024.

requirements set by the authorized body. This situation also negatively affects the uniformity of principles and standards for providing psychiatric services, proper cooperation between various state bodies in the social integration of persons with mental health problems, and the effectiveness of state supervision over the sector.

Therefore, the work of various departments in the mental health field should be coordinated with a unified approach, and effective cooperation between them should be developed.

The concentration of psychiatric care and services or the institutionalization of mental health care in hospitals in Armenia, and the ineffective application of community-based services, continue to stand out as a systemic problem.

Based on the results of the National Preventive Mechanism's monitoring in 2023, the Human Rights Defender reaffirms his position that although the Government has approved a perspective for deinstitutionalization and transition to community-based services, and certain work has been undertaken in individual cases, these are not sufficient for a fundamental solution to the problem.

According to information provided by the Ministry of Labor and Social Affairs, during 2023, Government Decision No. 1069-N of 2015 was developed and amended, clarifying provisions for providing alternative accommodation to elderly people in need of housing. It has also become possible to provide accommodation to all persons with chronic alcoholism, drug addiction, and those in difficult life situations.

To create new specialized care services, the Geghakert small house has been renovated, and charitable organizations have been involved in renovating the Aknashen and Mrgastan small houses.

According to information provided by the Ministry of Health, by Order No. 2948-L of the Minister of Health dated July 8, 2022, a program of measures for the preservation and improvement of mental health and a list of measures arising from the program were approved. According to sub-point 11 of point 3 of the list of measures, by December 2025, a pilot program will be developed and implemented for the introduction of a comprehensive system of accessible services for people with mental health problems in one community.

At the same time, to transition to a community-based services model, it is necessary to work towards eliminating social stigma against people with mental health problems through public awareness, which is extremely important and urgent.

The lack of unified standards for providing paid services in psychiatric organizations remains a concern. No strategic documents have been developed on this issue, which would allow addressing the identified problems within a unified policy framework and properly supervise the sector regardless of departmental subordination.

Thus, it is necessary to:

- ✓ ***Develop strategic documents for deinstitutionalization and transition to alternative services in the mental health field, taking into account international standards, principles, and positive experiences in the sector.***
- ✓ ***Define clear and practical measures aimed at fully implementing the initiated system of alternative services.***
- ✓ ***Expand the scope of existing alternative services to support the autonomy of people with mental health problems, their inclusion in community life, and other social issues.***

- ✓ *Conduct awareness-raising activities both on existing alternative services and to eliminate social stigma against people with mental health problems.*
- ✓ *Coordinate the work of competent bodies in the mental health field and their interconnected cooperation, implementing proper supervision.*
- ✓ *Have the body developing sector policy define lists of paid services under the conditions of legally provided guarantees of free psychiatric care and service, to exclude unjustified differentiation of types and rates of paid services in psychiatric organizations.*
- ✓ *Provide comprehensive and accessible information to people with mental health problems about the organization of free psychiatric care and services.*

3.2. Issues Related to Ensuring The Rights of Incapacitated Persons

In 2023, no effective steps were taken to review the institution of incapacity and introduce new tools, which remains concerning and does not stem from the state's obligation to protect the rights of persons declared incapacitated.

The National Preventive Mechanism has regularly addressed this issue in both annual reports and the ad hoc reports of 2018 and 2022 on "Ensuring the Rights of Persons with Mental Health Problems in Psychiatric Organizations"⁵.

In 2023, in addition to the recurring issues recorded in the aforementioned reports, the National Preventive Mechanism also noted that when organizing psychiatric care and services for minors or incapacitated persons in inpatient conditions, according to legal requirements, their opinion is recorded in their medical history. However, if they disagree with their legal representative (when the minor or incapacitated person does not want to be in a psychiatric hospital for examination or treatment, but the legal representative insists on the necessity of treatment), the person's opinion has no legal consequence, and the person is kept in the psychiatric organization against their will.

Article 17, part 2, point 5 of the RA Law "On Psychiatric Care and Services" *stipulates the requirement to record the opinion of a child or a person declared incapacitated by law when providing psychiatric care and services.* However, there are no mechanisms provided by law to initiate involuntary treatment procedures in case of disagreement with the legal representative, which limits not only their right to be heard but also several other rights.

In another case, the National Preventive Mechanism recorded that even when a psychiatrist or psychiatric commission finds that a person no longer needs inpatient treatment, legal representatives mostly object to the patient's discharge and refuse to take the person under their guardianship from the psychiatric organization. It is particularly concerning that such a situation has been recorded in the treatment processes of wards from both the "Gavar Orphanage" SNCO and the "Mari Izmirlyan Orphanage" SNCO in psychiatric organizations.

Therefore, it is necessary to:

- ✓ *Consider the opinion of the ward when establishing guardianship for persons with mental health problems and declared incapacitated.*

⁵ See on <https://ombuds.am/images/files/0a236e05dd43675f5daf520f89688f47.pdf> and <https://ombuds.am/images/files/7fc26e97e3c21aaacac56743c7b4aef7.pdf> as of 29.03.2024.

- ✓ *Have the competent state authority discuss the disagreements and conflicts of interest between the guardian and the ward when appointing the latter as a guardian.*
- ✓ *Have the guardianship and trusteeship body supervise the activities of guardians in the interests of their wards.*
- ✓ *Regularly monitor the activities of guardians and take steps defined by law based on the results.*
- ✓ *Immediately initiate legislative changes to review the regulations of Article 37, part 4, and Article 41, part 2 of the RA Civil Code, eliminating the requirement for the guardianship and trusteeship body to release previously appointed guardians or trustees from their duties and hand them over to institutions when placing a ward in an appropriate educational, medical, social protection, or similar institution.*
- ✓ *Maintain the requirements set by Article 17, part 2 of the RA Law "On Psychiatric Care and Services" regarding obtaining written informed consent from an incapacitated person for receiving or refusing psychiatric intervention.*
- ✓ *Immediately initiate legislative changes in Article 17, part 2 of the RA Law "On Psychiatric Care and Services," establishing a mandatory requirement to initiate involuntary treatment procedures in case of disagreement between the guardian and legal representative regarding inpatient treatment or examination.*

3.3. Application of Compulsory Medical Measures

Within the framework of monitoring by the National Preventive Mechanism, it continues to be observed that the absence of community-based services, as well as social issues, directly affect the judicial proceedings regarding the application of compulsory medical measures, leading to the continued application of compulsory medical measures against persons who have committed a crime in a state of insanity.

Thus, in the reasoning sections of judicial acts concerning the continuation, modification, or termination of compulsory medical measures against a person, the courts continue to emphasize the need for constant care for the individual and the availability of means to provide it. In particular, in one of the cases, the court noted: *"In the event of terminating compulsory treatment, the person does not even have a guardian who could take over the further course of treatment, and the court refrains from expressing a position on the issue of placing the person in the Vardenis Psychoneurological Boarding House, as no assessable data has been presented regarding ensuring proper supervision over the person and proper outpatient treatment process in that institution."*

As a result of the absence of community-based services, individuals with mental health issues who do not require inpatient treatment are kept in psychiatric institutions, which is unacceptable and indicates a lack of targeted state policies and coordinated work among various state bodies in this area.

Issues with the accessibility of social services should not be an obstacle to terminating the application of compulsory medical measures against an individual, depriving them of liberty for an extended period. This could lead to violations of the state's positive obligations and the individual's fundamental rights, such as the right to liberty and the right to be free from torture and ill-treatment.

In an individual complaint addressed to the Human Rights Defender, a lawyer argued that their client was subjected to a compulsory medical measure, namely compulsory treatment in a psychiatric

ward under general supervision, and is being held at the "National Center for Mental Health Protection" CJSC under the RA Ministry of Health.

On March 7, 2023, as a result of a medical commission examination, a conclusion was made that the lawyer's client poses a danger to the public, and it was recorded that it is necessary to terminate his compulsory treatment in a general-type psychiatric ward and transfer him to a special-type ward. Based on this conclusion, the psychiatric institution filed a motion to the court of first instance. The court, by its decision, granted the motion of the psychiatric institution, after which the psychiatric institution immediately initiated the execution of the judicial act – the transfer of the person to a special-type ward, despite the fact that the lawyer appealed the judicial act in the prescribed manner. The transfer of the person to a ward with stricter conditions was suspended by the intervention of the Human Rights Defender, pending the outcome of the appeal and the issuance of a judicial act.

In another case studied, the court did not grant the motion of the National Center for Mental Health Protection CJSC to modify the compulsory medical measure applied to a resident of the "Vardenis" Psychoneurological Boarding House SNCO, reasoning that *it was not confident that the person could return and be readmitted to the "Vardenis" Psychoneurological Boarding House SNCO*.

Article 24.1 of Recommendation No. 10 (2004) of the Council of Europe's Committee of Ministers concerning the protection of the human rights and dignity of persons with mental disorders states that *involuntary hospitalization or treatment should be terminated if the grounds for hospitalization no longer apply to the person*.

The Human Rights Defender emphasizes that keeping a person in a psychiatric institution in the absence of grounds for hospitalization or treatment may lead to violations of the state's positive obligations and the individual's fundamental rights, such as the right to liberty and the right to be free from torture and ill-treatment.

The Court found that in such cases, persons with mental health issues have the right, in accordance with Article 5(4) of the European Convention on Human Rights, to have the lawfulness of their deprivation of liberty by being kept in a psychiatric institution promptly reviewed by a court.

In one of the cases examined by the National Preventive Mechanism, taking into account the conclusion of the Outpatient Forensic Psychiatric Expert Commission dated January 10, 2020, which stated that *the person suffers from "Schizophrenia, paranoid type, with stable deficit" and could not account for his actions or control them at the time of the imputed act or currently, "therefore, there is a need to recognize the person as insane concerning the imputed act and prescribe compulsory treatment in a general psychiatric ward,"* the court of first instance on August 10, 2022, exempted the person from criminal liability on the grounds of committing a non-criminal act in a state of insanity and applied a compulsory medical measure of compulsory treatment in a psychiatric ward under general supervision.

In another criminal proceeding against the same person, based on another forensic psychiatric examination conclusion dated May 31, 2023, on December 18, 2023, the first instance court of general criminal jurisdiction again exempted the person from criminal liability on the grounds of committing a non-criminal act in a state of insanity and applied a compulsory medical measure of outpatient supervision by a psychiatrist and compulsory treatment.

Despite the fact that the compulsory medical measure of outpatient supervision by a psychiatrist and compulsory treatment was applied later than the previously ordered compulsory treatment in a psychiatric ward under general supervision, the person continued to be kept in the psychiatric institution.

In the case of *T.A. v. Armenia*⁶, the European Court of Human Rights reiterates that *an individual cannot be deprived of his liberty as being of “unsound mind” unless the following three minimum conditions are satisfied:*

- 1. A true mental disorder must be established before a competent authority on the basis of objective medical expertise*
- 2. The mental disorder must be of a kind or degree warranting compulsory confinement.*
- 3. The validity of continued confinement depends upon the persistence of such a disorder.*

Furthermore, the Court has previously noted *that when imposing on the applicant compulsory treatment in a psychiatric institution, did not consider a less severe measure in the form of outpatient supervision and compulsory treatment by a psychiatrist which was one of the types of compulsory medical measures available under domestic law. It cannot therefore be said that the decision to deprive the applicant of his liberty was based on an assessment of all the relevant factors including the therapeutic prospects or the viability of less invasive alternatives, as required also by the United Nations Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care*

The Court considers that *the authorities should have taken a more cautious approach, given that any encroachment on the Convention rights of those belonging to particularly vulnerable groups such as psychiatric patients can be justified only by “very weighty reasons” and taking into account the fact that compulsory psychiatric hospitalisation often entails measures interfering with a person’s private life and physical integrity, including medical interventions in defiance of the subject’s will, such as forced administration of medication*

The Court finds that *“the domestic authorities failed to convincingly demonstrate that the applicant’s mental disorder was of a kind or degree warranting compulsory confinement. It follows that the applicant’s confinement in the psychiatric institution did not meet the requirements of 5 § 1 (e) of the Convention.*

Another issue arises when a person was admitted to a psychiatric institution in the framework of Article 457, Part 2 of the RA Criminal Procedure Code (no longer in force) adopted in 1998, which did not specify maximum time limits for applying a security measure in the form of placement and treatment in a psychiatric institution in each case, nor did it provide a legal procedure for extending the period of application of the security measure. The current RA Criminal Procedure Code stipulates that the rules prescribed by the Code for the application of detention as a restraint measure, including the time limits for detention, shall apply to medical supervision. The key point is that under the previous Criminal Procedure Code, there were no clear time limits or procedures specified for extending the application of involuntary placement and treatment in a psychiatric institution as a security measure. The current Code has addressed this by applying the same rules and time limits as for pre-trial detention to such instances of involuntary psychiatric confinement.

Simultaneously, the current RA Criminal Procedure Code does not establish mechanisms for reviewing decisions on applying the security measure of placing and treating a person in a psychiatric institution, as stipulated in Article 457, Part 2, Point 2 of the former RA Criminal Procedure Code. As a result, a person may be kept in a psychiatric institution for an extended period before the court decides on applying a compulsory medical measure, which severely restricts their right to freedom of movement and personal liberty. Moreover, during this period, the person may recover and no longer pose a danger to themselves or society, but they continue to be kept in the psychiatric institution receiving custodial treatment. The Human Rights Defender emphasizes that such a practice is unacceptable.

⁶ See on <https://hudoc.echr.coe.int/eng#%7B%22tabview%22%3A%22document%22%2C%22itemid%22%3A%22001-230714%22%7D> as of 29.03.2024

Regarding this issue, in its decision No. ED/0190/01/21 dated February 22, 2024, the Court of Cassation, based on the case law of the European Court of Human Rights and developing its previously expressed legal positions, stated that the court's conclusion on the necessity of applying a compulsory medical measure against a person and the choice of its type cannot be based on the findings of an expert opinion obtained with a significant time gap. In particular, the courts must take into account that if there is a long time gap between the forensic psychiatric examination conducted during the pre-trial proceedings against a person and the completion of the trial, the person's mental state may have undergone changes, rendering the expert opinion obtained during the pre-trial stage obsolete. In other words, in the listed cases, when imposing a compulsory medical measure related to the restriction of a person's liberty and determining its type, the person's mental health condition should be assessed as of the time of the court session. That is, the application of a compulsory measure and the choice of its type against a person with mental health issues must be justified and substantiated by the necessity to deprive the person of liberty based on their mental health condition at the time of the court's decision.

Another issue arises when the court orders a compulsory medical measure of compulsory treatment in a psychiatric ward against a person but does not specify whether the treatment should be organized in a special or general psychiatric ward.

Thus, it is necessary for the bodies responsible for summarizing judicial practice to examine the judicial practice in proceedings involving the application of compulsory medical measures in order to identify these issues and take steps to address them.

3.4. Insufficient Financial Resources

In 2023, issues related to inadequate protection of the rights of persons with mental health problems were recorded in the monitored psychiatric organizations, which were mainly due to insufficient financial resources of the institutions.

The problem of lack of renovation, clothing, furniture, bedding, and linen recorded at the Armash Health Center is a result of insufficient financial resources allocated from the state budget based on the corresponding contract.

In the Syunik Psychiatric-Neurological Dispensary, the main burden of providing food for people with mental health problems is borne by charitable means, particularly with the support of "Zangezur Copper Molybdenum Combine" CJSC.

It should be noted that all necessary expenses are calculated in the financial allocations of psychiatric organizations, including employees' salaries, necessary medications, organization of hospital medical services, acquisition of sanitary and hygienic supplies, heating, food, etc.

In 2022, along with the increase in salary rates in the system, the salaries of employees of psychiatric organizations also increased, which is welcome. At the same time, as a result of studying the financial indicators of psychiatric organizations, it was recorded that in 2023, most of the allocated funds were used for salary payments, resulting in psychiatric organizations having crucial but unfulfilled expenses due to budget constraints.

In some psychiatric organizations, debts were accumulated at the end of the year due to financial expenses. Within the budget, psychiatric institutions were unable to provide patients with clothing, bedding, and linen, acquire necessary furniture, and organize planned construction works (Armash Health Center), or the provision of food for patients was carried out through charitable means.

Due to the scarcity of financial resources in the Center, the insufficiency of the 2023 budget has led to a continuous deterioration of the situation.

Thus, due to insufficient financial resources allocated to psychiatric organizations, the minimum needs of persons with mental health problems are not met, namely: providing patients with clothing, bedding, and hygienic supplies in the amounts and usage periods prescribed by law, ensuring thermal regime, which leads to a violation of their right to a dignified life and degrading treatment.

Considering the above, it is necessary to study the needs of psychiatric organizations and take steps to increase their financial allocation.

3.5. Manifestations of Ill-Treatment

The various manifestations of ill-treatment in psychiatric organizations are highly alarming, especially given that the Human Rights Defender, acting as the National Preventive Mechanism, consistently raises systemic issues related to the prevention of ill-treatment in reports submitted to responsible departments based on the results of monitoring visits to closed institutions, as well as in annual reports.

In particular, at the beginning of 2023, a case of periodic and prolonged use of unlawful physical restraint measures against a patient was recorded at the Vardenis Psychoneurological Boarding House. For a long time, from October 2022 to February 16, 2023, physical restraint was applied for more than 4 hours a day, up to the entire night, by tying a metal chain around a cloth wrapped around the patient's abdominal area and fixing it to a heating radiator. The patient's daily life was organized on a mattress placed on the floor. It should be noted that during the thematic monitoring visit of the representatives of the National Preventive Mechanism to the Vardenis Psychoneurological Boarding House, it also became clear that the patient was escorted to the bathroom in chains to meet their natural needs or did so in the wardroom.

As a result of the above-mentioned actions, the person's rights guaranteed by the RA Constitution, such as physical and mental inviolability, freedom from torture, inhuman or degrading treatment, and several other rights were violated.

It should be emphasized that in connection with the above-mentioned case, criminal proceedings have been initiated under the features of Article 195 (physical violence) and Article 441 (abuse of power or official authority or exceeding authority by an official) of the RA Criminal Code.

In response to the observations of the National Preventive Mechanism regarding the improper use of restraint measures in special care institutions, clarifications have been received from the RA Ministry of Labor and Social Affairs stating that the orders of the RA Minister of Health and other legal acts regulating the field apply to organizations providing psychiatric medical care and services. No legal act regulates the procedure for the use of physical restraint, sedation, and isolation measures against the beneficiaries of special (specialized) 24-hour care institutions for the social protection of the population. It is also not clearly defined whether care centers for people with mental health problems can use any means or methods of restraint or not. Therefore, it turns out that depending on the situation, the relevant institution, in individual cases, makes a decision on what means of restraint it can apply, naturally, based on the conclusion of a psychiatrist.

Thus, it is obvious that in the absence of guidance by the RA Law "On Psychiatric Care and Services" and the orders of the RA Minister of Health on the procedures for the use of restraint measures, and in the absence of other legal regulations for the beneficiaries of special (specialized) institutions, restraint measures are applied to the beneficiaries of special (specialized) 24-hour care institutions for social protection of the population, which lead to various manifestations of ill-treatment, even torture.

In another case, during a monitoring visit by the representatives of the National Preventive Mechanism to the Armash Health Center, one of the persons with mental health problems periodically displayed aggressive behavior, particularly attacking other patients and hitting them with feet or hands (the mentioned patient also attacked and kicked the Defender's representatives during the visit).

According to the information received by the Defender's representatives, the above-mentioned person had been displaying such behavior for a long time, and the movement and mobility restrictions implemented by the medical staff were not effective, and the attacks and beatings were repeated shortly after.

Moreover, as a result of the blows inflicted by the person, one of the patients received an injury (abrasion, bruise) in the back area, which was not recorded anywhere and did not receive a proper and sufficient response.

It is also noteworthy that in such a situation, no change was made in the treatment strategy of the given person, and the patient's medical history did not reflect the real picture of the course of the patient's illness.

The lack of skills in working with persons with mental health problems who display behavior dangerous to themselves or others can lead to a threat to the health and life of both the person and others, for which the state is directly responsible through the psychiatric organization.

It should be noted that the lack of skills of the medical staff of psychiatric organizations in overcoming interpersonal conflicts between patients, as well as working with persons with mental health problems who display uncontrollable behavior, can in itself lead to various manifestations of ill-treatment, which is unacceptable and requires urgent solutions.

Thus, it is necessary to:

- ✓ ***Develop clear procedures for the use of restraint measures against the beneficiaries of special (specialized) 24-hour care institutions for the social protection of the population, based on the relevant provisions of the RA Law "On Psychiatric Care and Services".***
- ✓ ***Take steps to develop the skills of the staff of psychiatric organizations in overcoming interpersonal conflicts between patients and working with patients who display uncontrollable behavior, as well as in preventing situations that threaten the health and life of the latter.***

3.6. Informed Consent: Voluntary and Involuntary Treatment

In 2023, obtaining informed consent from persons with mental health problems in psychiatric organizations has mostly continued to be of a formal nature. When admitted to the institution, they mostly do not provide informed consent regarding treatment or care and its organization in inpatient conditions, which is highly unacceptable and grossly violates the legal regulations of voluntary and involuntary treatment established by the RA Law "On Psychiatric Care and Services".

Thus, during monitoring visits to psychiatric organizations, persons with mental health problems claimed that when being admitted to institutions or during their stay there, they signed some documents without familiarizing themselves with their content and realizing their nature and possible legal consequences. This is also evidenced by the questions asked by persons with mental health problems to the Defender's representatives, which related to their rights and the mechanisms for their implementation.

Moreover, a study at the Armash Health Center revealed that some of the patients recognized as incapable cannot express an opinion about their hospitalization and receiving treatment (some cannot write, while others, due to their illness, cannot even express their position). However, in the application submitted to the organization in this regard, with the help of the medical staff, they made certain marks in the section intended for the signature of the application, which in such a situation cannot be a form of expressing the free will of the patients.

In such cases, when the patient is unable to express their position, hospitalization, and treatment of a person only with the consent of a legal representative remains a concern, which endangers the person's right to mental and physical inviolability, as well as the right to privacy.

This implies that the psychiatric organization, by receiving formal applications for consent to treatment and hospitalization from admitted persons, which do not express the free and informed will of persons with mental health problems, bypasses the judicial procedures provided for involuntary treatment, which were established by the legislator to exclude the arbitrary detention of persons in psychiatric organizations.

The Defender emphasizes that this ongoing practice in psychiatric organizations is subject to immediate elimination. In this context, it is extremely important for the patient to provide informed consent for psychiatric care and services, as well as proper awareness of their rights.

In practice, not only are patients not provided with information leaflets according to the procedure prescribed by law, but they are also not properly informed about the rights of a person with mental health problems, their limitations, as well as the nature of the mental disorder, the purpose, methodology, duration of the proposed treatment, as well as side effects and expected results, and the consequences of refusing psychiatric care and services.

The Defender emphasizes that the need for care or being abandoned by relatives cannot be considered sufficient grounds for keeping a person in a psychiatric organization. In such cases, the issue of community-based services or institutions providing social care for persons with mental health problems is important. Moreover, the insufficiency or absence of community-based services cannot be a justification for the state to continuously keep persons with mental health problems in psychiatric organizations against their will in the absence of grounds established by law or to deprive persons of their liberty by applying the toolkit of involuntary treatment.

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

- ✓ ***Take steps to provide accurate information to persons admitted to psychiatric organizations about their rights to give or not give consent to hospitalization and treatment, to review the consent later, to refuse treatment, as well as the possibility for a person voluntarily admitted to a psychiatric organization to leave that organization and their other rights.***
- ✓ ***Take steps to obtain informed consent for the hospitalization and treatment of persons with mental health problems, as well as develop mechanisms for monitoring this process.***

- ✓ *Organize training for the medical staff of psychiatric organizations on the legal grounds and procedures for the implementation of voluntary and involuntary treatment in order to exclude cases of violation of the rights of persons with mental health problems.*
- ✓ *Exclude the initiation of the procedure for subjecting persons with mental health problems to involuntary treatment without appropriate legal grounds.*
- ✓ *Record the date of submission of consent for hospitalization and treatment in the consent forms.*
- ✓ *Comply with the requirements established by Part 2 of Article 17 of the RA Law "On Psychiatric Care and Services" regarding the written informed consent for receiving or refusing psychiatric intervention for a person recognized as incapable.*

3.7. Issues Related To Judicial Procedures For Involuntary Hospitalization

In practice, cases have been recorded in the procedure of involuntary treatment when the psychiatric organization submitted an application to the court for subjecting a person to involuntary hospitalization and treatment in a psychiatric organization, and a court session was appointed and a verdict was rendered after a long time. A study of a number of court cases on involuntary hospitalization in the "Datalex" judicial information system revealed that in connection with the applications of the psychiatric organization, a court session was appointed a long time after the acceptance of the application of the psychiatric organization, up to 12 days. In practice, from the submission of an application by a psychiatric organization for the involuntary hospitalization of persons with mental health problems to the rendering of a court verdict, it took more than two weeks.

Problems have also been recorded in connection with sending judicial acts on involuntary hospitalization to the persons participating in the case. In particular, psychiatric organizations do not start implementing involuntary treatment of a person until they receive the paper version of the judicial acts or they are not posted in the "Datalex" judicial information system. As a result, the person's treatment process is delayed.

Another problem is the lack of special procedural deadlines for the consideration of appeals in case of appealing verdicts on involuntary hospitalization.

Thus, according to Article 236 of the RA Civil Procedure Code, cases on subjecting a person to involuntary hospitalization in a psychiatric organization are considered a special procedure, that is, taking into account the peculiarities of the cases, the court considers the applications in the shortest possible procedural time. However, the RA Civil Procedure Code does not provide for similar regulations in terms of procedural deadlines for the procedure of appealing a verdict on subjecting a person to involuntary treatment.

In particular, the legislator did not provide for a special judicial procedure for reviewing the verdict on involuntary treatment, which would imply shorter deadlines for considering complaints against these judicial acts. Under these conditions, the higher judicial instances consider the appeals and cassation complaints against these judicial acts in a general manner. This can lead to problematic situations in terms of human rights protection and prevention of ill-treatment since the person against whom a decision on involuntary treatment has been made continues to remain in detention and undergo involuntary treatment during this period.

Moreover, Article 270.1 of the RA Civil Procedure Code stipulates that in case of recovery of a person before the deadline set by the court verdict on subjecting a citizen to involuntary psychiatric inpatient treatment, the psychiatric organization, based on the conclusion of the psychiatric commission, submits an application to the court, on the basis of which the court renders a verdict on canceling the verdict on subjecting the citizen to involuntary hospitalization in a psychiatric organization.

From the content of the legal regulation of Part 2 of Article 198 of the RA Civil Procedure Code, it becomes clear that in case of appealing the verdict on subjecting a person to involuntary treatment in a psychiatric organization, it does not enter into legal force.

During 2023, cases have arisen in practice when the grounds for a person's hospitalization have been eliminated earlier than the verdict on subjecting the person to hospitalization in a psychiatric organization has entered into legal force (the verdict has been appealed). In such a case, the psychiatric commission, finding that the person kept in the psychiatric organization has recovered and the grounds for their hospitalization have been eliminated, applied to the court with a demand to cancel the verdict on subjecting the person to hospitalization. However, the court did not have the opportunity to consider the application submitted by the psychiatric organization, since the above-mentioned verdict was appealed to the Court of Appeal and did not enter into legal force, and no judicial act has yet been rendered due to the appeal.

Thus, taking into account that the RA Civil Procedure Code provides for a procedure not for terminating the involuntary treatment of a person in a psychiatric organization (as provided for by the legal procedure for submitting a motion to terminate the application of a medical coercive measure), but for canceling the court verdict on subjecting a citizen to involuntary hospitalization in a psychiatric organization, a situation may arise when a person, without the need for inpatient psychiatric care and medical justification, is kept in a psychiatric organization in detention for a long time until the court verdict on subjecting them to involuntary hospitalization enters into legal force.

Thus, in a complaint addressed to the Human Rights Defender, a person stated that on September 8, 2023, the Yerevan Court of First Instance of General Jurisdiction for Civil Cases rendered a verdict on subjecting them to involuntary hospitalization for a period of no more than 6 months, which was appealed by way of appeal. On December 11, 2023, the RA Civil Court of Appeal made a decision to reject the appeal and leave the verdict of the Yerevan Court of First Instance of General Jurisdiction for Civil Cases unchanged. On December 14, 2023, the psychiatric organization, based on the conclusion of the psychiatric commission, submitted an application to the Court of First Instance with a demand to cancel the above-mentioned verdict on subjecting the person to involuntary hospitalization.

According to the person who filed the complaint, the Court of First Instance did not consider the application submitted by the psychiatric organization, since the decision of the Civil Court of Appeal dated December 11, 2023, on rejecting the appeal and leaving the verdict of the Court of First Instance in legal force, did not enter into legal force.

It should be emphasized that the court considered the issue of canceling the verdict on involuntary hospitalization only on January 24, 2024, a long time after the conclusion given by the psychiatric commission on December 14, 2023, regarding the person's recovery.

As a result of the consideration of the issue, the court satisfied the application of the psychiatric institution regarding the demand to cancel the court verdict on subjecting the person to involuntary hospitalization in a psychiatric organization.

Thus, the patient undergoing involuntary treatment, who, according to the conclusion of the psychiatric commission, no longer needed inpatient treatment and was subject to discharge, continued to be kept in a psychiatric organization for a long time.

Taking into account the presented timeframes for case examination in the instances of appeal and cassation, as well as the fact that the Civil Procedure Code of the Republic of Armenia does not stipulate short timeframes for examining an application to revoke a court decision on involuntary hospitalization of a citizen in a psychiatric organization, a situation arises where an individual is de facto detained in a psychiatric organization for an extended period of time, without the necessity for inpatient psychiatric care and medical justification.

Summarizing the above, it is necessary to:

- ✓ ***Enshrine clear procedural deadlines in the RA Civil Procedure Code for considering an application to cancel the court verdict on subjecting a person to involuntary hospitalization.***
- ✓ ***Enshrine special, shorter procedural deadlines in the RA Civil Procedure Code for considering complaints against verdicts rendered by the Courts of Appeal and Cassation on applications for involuntary hospitalization.***
- ✓ ***Make the issue of enshrining the possibility of terminating a person's involuntary hospitalization in the RA Civil Procedure Code a subject of discussion, regardless of the fact of the judicial act rendered on the consideration of the application for subjecting a person to involuntary hospitalization entering into legal force.***

3.8. Applicability Of Telemedicine In The Process Of Psychiatric Care And Services

In the monitored psychiatric organizations, where psychiatrists are not on duty during non-working hours and days, in cases when persons with mental health problems or their legal representatives apply to a psychiatric organization, the medical examination is carried out by the nurse of the responsible duty medical staff. In some cases, for the purpose of admitting persons who have applied to a psychiatric organization for inpatient care, the examination and consultation are organized remotely by a psychiatrist. In extreme cases, a psychiatrist can be invited to the psychiatric organization.

During the monitoring visits, problems related to the implementation of proper medical supervision were also recorded in cases of applying restraint measures to patients in psychiatric organizations. In psychiatric organizations, in practice, restraint measures are more often applied to patients by nurses, since psychiatrists are not on duty on non-working days and hours, and they, as a rule, are only informed by telephone and guide the medical staff applying the restraint measure.

This is of great concern in cases where the application of restraint measures to a patient can be accompanied by various complications and, in some cases, require immediate medical intervention.

In connection with the above-mentioned problem recorded by the Human Rights Defender during the monitoring visits, the RA Ministry of Health reported that by the order of the Minister of Health No. 42-N dated 08.07.2022, the procedure for the implementation of telemedicine was approved, through which remote consultation between doctors, as well as between a doctor and a patient, can be carried out in an online environment using information technologies, with the help of a software application that can record and store that recording. According to the information received from the responsible persons of

the "ArMed" electronic healthcare system, the "myLex/ArMed-AI Health Assist" application is being launched in addition to the "ArMed" system for the purpose of organizing telemedicine.

It should be noted that in the above-mentioned cases, psychiatrists in psychiatric organizations did not use the application under discussion, and remote consultation was organized through cellular phone calls or mobile applications - video calls, which cannot record and store that recording.

Moreover, a study of the above-mentioned "myLex/ArMed-AI Health Assist" application attached to the "ArMed" system by the representatives of the Defender's staff revealed that the application does not have the possibility of conducting remote, direct consultation between the patient and the specialist doctor or between specialist doctors at all. In particular, the application already provides a certain number of questions about the person's health condition through an automated system, after entering data in the answer fields which, based on the person's symptoms, artificial intelligence processes and presents all possible diagnoses with a percentage ratio.

Taking into account the above, both the developed procedure for the implementation of telemedicine and the digital application created for its implementation are not intended to create a direct connection between the patient of a psychiatric organization and the attending physician.

Taking into account the specifics of the field and the existing regulations of telemedicine, the organization of medical examination, consultation, as well as treatment processes for persons with mental health problems remotely remains problematic.

The Defender emphasizes that admitting a person to a psychiatric organization without a proper medical examination and applying restraint measures to them during their stay there, restricting their rights in another way that does not meet the relevant criteria, is unacceptable.

Therefore, it is necessary to:

- ✓ ***Take measures to ensure that the conclusion on the need for hospital examination and treatment of all persons admitted to a psychiatric organization is provided by a psychiatrist only as a result of their mandatory examination in accordance with the procedure established by law.***
- ✓ ***Taking into account the insufficient number of psychiatrists, study and introduce clear mechanisms and procedures for the introduction and operation of telemedicine that meet the relevant criteria for the initial examination and consultation of persons with mental health problems.***

3.9. Restraint Measures

The use of restraint measures in psychiatric organizations and the issues related to their legal grounds continue to be concerning.

3.9.1. Physical Restraint

For the proper organization of physical restraint, the places designated for their implementation, conditions, furnishings, and comfort are important.

For example, in the "Armash" Mental Health Center, as well as in the "isolation" department of the Syunik Psychiatric-Neurological Dispensary, there were no specially equipped rooms for the use of physical restraint or isolation measures. Only one department of the Sevan Mental Health Center had a

separate and furnished room for the use of restraint measures, while in other departments, restraint measures were applied in general patient rooms in the presence of other persons with mental health problems.

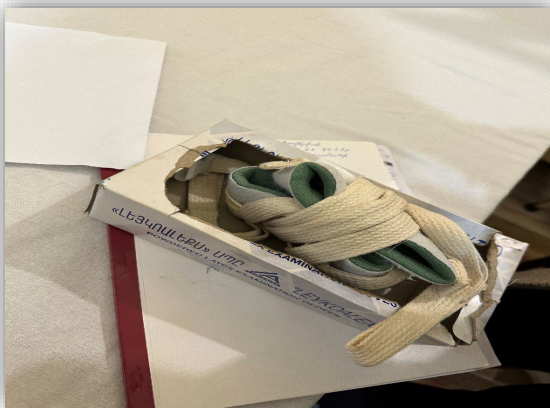
It is commendable that separate restraint rooms have been established in the women's and men's wards at the "Avan" Mental Health Center.

The Defender emphasizes that the practice of applying restraint measures within sight of other patients is unacceptable and contradicts the legislation of the Republic of Armenia.

Therefore, it is necessary to strictly adhere to the standards for applying physical restraint as defined by law and to exclude their use in the presence of other patients.

Various means are used for physical restraint in the psychiatric organizations studied. In practice, cases have been documented where mechanical means not provided for by law have been used in psychiatric organizations.

In particular, at the "Armash" Mental Health Center, Esmarch rubber bandages were used as a means of physical restraint (4 Esmarch bandages were available in the medical intervention room for tying the patient's limbs), as well as Posey belts made of leather clothing and synthetic fabric. At the Sevan Mental Health Center, Posey belts were also used as physical restraint measures.



Restraint measures

The Defender emphasizes that the use of items intended for other purposes as physical restraints, including Esmarch bandages, must be prohibited.

At the Syunik Psychiatric-Neurological Dispensary, the medical staff presented homemade sets made of soft fabric as mechanical restraints, which were difficult to release.

The aforementioned physical means used in psychiatric organizations were not comfortable and were difficult to release, which increases the risk of trauma and disproportionate use of force.

According to information provided by the RA Ministry of Labor and Social Affairs, the "Dzorak" Care Center for Persons with Mental Health Problems SNCO and the "Vardenis Neuropsychological Boarding House" SNCO did not acquire physical restraint means in 2023, as they are round-the-clock care centers and do not have healthcare functions.



Restraint measures

This approach is concerning when, during monitoring visits to specialized (professional) round-the-clock care institutions for the social protection of the population, cases of applying physical restraints to beneficiaries and corresponding records have been documented. It should be emphasized that not providing restraint means to care institutions, as well as not establishing legal regulations for the use of restraint means, not only fail to prevent the vicious practice of unnecessary use of restraints on beneficiaries but also serve as a basis for the use of uncomfortable mechanical means not provided for by law, even dangerous to the life and health of the individual, as physical restraints on beneficiaries.

The negative consequences of applying restraint measures to beneficiaries in specialized (professional) round-the-clock care institutions for social protection of the population, in the absence of guidance from the RA Law "On Psychiatric Care and Services" and the RA Minister of Health's orders on restraint procedures, and without establishing other legal regulations for the sector regarding the beneficiaries of special (specialized) institutions, are detailed in section 3.5 of Chapter 3 of the report.

The ongoing practice of using mechanical means for physical restraint that are not provided for by law, uncomfortable, and difficult to release is unacceptable and in some cases may endanger the patient's health and lead to various manifestations of ill-treatment.

In the monitored psychiatric organizations, registers were kept regarding the use of physical restraint or isolation measures, or calming methods. The study of these registers revealed that in some cases of applying physical restraint to a patient, the requirements of Article 8, Part 7 of the RA Law "On Psychiatric Care and Services" were not met, namely, the patient was not subjected to periodic medical examination (in the Syunik Psychiatric-Neurological Dispensary).

A case was also recorded in the Syunik Psychiatric-Neurological Dispensary where the entries in the register for the application of physical restraint or isolation measures or calming methods did not contain the required complete information regarding medical examinations. Specifically, the hour and minute of the patient's medical examination were not filled in. In such a case, it is unclear how long after the application of physical restraint and with what frequency the person with mental health problems was subjected to a medical examination.

During the visits, problems related to proper medical supervision were also recorded in cases of applying restraint measures to patients in psychiatric organizations. In practice, restraint measures are more often applied to patients by orderlies and nurses, as psychiatrists are not on duty during non-working days and hours, and the latter only receive information and guide the nurses applying the restraint measure via phone.

This is concerning in cases where the application of restraint measures to a patient may proceed with various complications and in some cases necessitate immediate medical intervention.

This practice is problematic in terms of monitoring the incident, as well as evaluating the effectiveness of each applied restraint measure and emphasizing their combination.

Moreover, due to the shortage of medical staff positions in all monitored psychiatric organizations, after the application of physical restraint, one duty nurse (during night hours, one nurse and one orderly are in the department) or an orderly during working hours are forced to leave the supervision of other patients in the department or their main functions to monitor the patient who has been physically restrained. *The Defender once again emphasizes the need to increase the number of medical staff positions responsible for the care and supervision of patients in the departments.*

Therefore, it is necessary to:

- ✓ ***Provide separate rooms for the application of physical restraint measures in the departments of psychiatric organizations;***
- ✓ ***Exclude the application of restraint measures on persons with mental health problems in places not intended for their use, in the presence of other patients or care recipients;***
- ✓ ***Ensure that mechanical means of physical restraint are non-traumatic, easily releasable, do not cause pain to the patient, and do not create threats to their health;***
- ✓ ***Remove worn-out and unusable medical supplies from use, particularly Esmarch bandages;***
- ✓ ***Implement proper medical supervision of the patient in cases of applying physical restraint, making appropriate entries in medical documents;***
- ✓ ***Properly fill out the registers for the application of physical restraint or isolation measures or calming methods;***
- ✓ ***Organize periodic training for medical staff on the procedure for applying physical restraint;***

- ✓ *Consider the issue of increasing the number of medical staff positions responsible for the care and supervision of patients in psychiatric organizations.*

3.9.2. Pharmacological Sedation

During 2023, pharmacological sedation measures not provided for by law were often used as a means of restraint for persons with mental health problems in psychiatric organizations.

According to the information received, at the Syunik Psychiatric-Neurological Dispensary, "Cardiamin" medication was used as a sedative measure for patients, among other drugs, which is not included in the list of medications defined by the RA Minister of Health's Order N 04-N dated January 27, 2021 "On Establishing the List of Drugs Provided for Sedation of Persons with Mental Health Problems". Moreover, the use of "Cardiamin" was not justified in medical documents, and there were no notes regarding its use as a corrector drug to manage the side effects of sedatives or as a medication to regulate somatic conditions.

In some cases, the failure to record the name of the drug used as a pharmacological sedation measure in the registers for the application of physical restraint or isolation measures, or calming methods raises concerns about the compliance of the drug with the list of drugs provided for sedation of persons with mental health problems, approved by the order of the RA Minister of Health. (Sevan and Avan Mental Health Centers).

The Defender emphasizes that the use of pharmacological sedation measures not provided for by law is unacceptable.

Improper recording of pharmacological sedation measures also raises concerns about non-compliance with the established procedures for their use.

During monitoring visits, it became clear that either physical restraint or pharmacological sedation could be applied to patients as needed. In some cases, the use of pharmacological sedation was combined with physical restraint measures.

At the Syunik Psychiatric-Neurological Dispensary, these sometimes follow each other, and in case of ineffectiveness of physical restraint, a pharmacological sedation measure is applied, after which the physical restraint is discontinued in 10-15 minutes. In some cases, a pharmacological sedation measure is applied, and 10-20 minutes later, physical restraint is used.

It was recorded in all monitored psychiatric organizations that pharmacological sedation measures were applied several times a day, with different doses and combinations of medications, while the RA Law "On Psychiatric Care and Services", as well as the Minister of Health's 2021 Order No. 04-N "On Establishing the List of Drugs Provided for Sedation of Persons with Mental Health Problems" do not provide for a procedure for combined or sequential application of physical restraint and pharmacological sedation methods, nor do they provide regulations regarding the combination of prescribed medications and maximum single or daily doses as a method of pharmacological sedation.

The practice of combining or sequentially applying physical restraint and pharmacological sedation methods without sufficient and proper scientific justification, as well as using pharmacological sedation methods with combinations of medications and different dosages in psychiatric organizations, is extremely concerning in the absence of legal regulations.

Cases have been recorded in psychiatric organizations where patients were not properly medically examined when pharmacological sedation measures were applied. At Sevan Mental Health Center, there have been cases where the results of medical examinations of persons with mental health problems were not properly recorded when pharmacological sedation was used. Specifically, the register only contained data on the patient's blood pressure and pulse, while information on body temperature, hydration level, and consciousness level was missing.

A study of the register at Sevan Mental Health Center revealed that in some cases, the hours and minutes of patient examination were not recorded, making it unclear when and how often the patient underwent medical examination and at what time their objective data was recorded.

During the monitoring visit, it became clear that psychiatric organizations did not maintain the procedure for recording the justification for applying the pharmacological sedation method.

At Syunik Psychiatric-Neurological Dispensary and "Armash" Mental Health Center, there were numerous cases where no justifying notes were made in the medical documents of persons with mental health problems or in the register of physical restraint, isolation measures, or sedation methods when pharmacological sedation was applied to patients. For example, at "Armash" Mental Health Center, pharmacological sedation was applied to a patient on a daily basis, particularly, when the person was given an "Azaleptin" pill on those days, but there was no justification for its use. Moreover, no record of the application of pharmacological sedation was kept in the corresponding register, which is unacceptable.

At "Armash" Mental Health Center, a practice of applying one-time or short-term injections of psychotropic drugs to patients outside the treatment course was recorded (for one patient, 2.0 ml of "Sibazon" was intravenously injected daily from April 6 to 9, 2023), which is effectively a means of pharmacological restraint. However, its use was not justified in the medical histories, and these cases were not recorded in the register of physical restraint, isolation measures, or sedation methods.

Thus, the absence or improper recording of the use of restraint measures in psychiatric organizations does not allow for proper control over specific cases, nor periodic medical supervision.

Therefore, it is necessary to:

- ✓ ***Exclude the use of drugs not prescribed by legislation as a method of pharmacological sedation;***
- ✓ ***Provide a procedure for combining or sequentially applying physical restraint and pharmacological sedation methods that complies with relevant criteria;***
- ✓ ***Apply pharmacological sedation measures exclusively in the presence of sufficient grounds and in accordance with the procedure established by law, recording the justifications for their use in the corresponding medical documents;***
- ✓ ***Establish proper medical supervision for patients who have been subjected to pharmacological sedation, making records about this in medical documents in accordance with the established procedure.***

3.9.3. Use of Isolation Measures and Physical Force

During 2023, no cases of the use of isolation measures were recorded in psychiatric organizations, and there were no rooms specifically designated for this purpose in the monitored psychiatric organizations.

The Human Rights Defender has consistently emphasized the need to enshrine the use of physical force as a means of restraint at the legislative level and to establish norms regulating it.

The issue of using physical force as a means of restraint against persons with mental health problems has been thoroughly analyzed in the Human Rights Defender's ad hoc public report "On Ensuring the Rights of Persons with Mental Health Problems in Psychiatric Organizations".⁷

Therefore, it is necessary to:

- ✓ ***Provide appropriate rooms for the purpose of applying isolation measures in psychiatric organizations;***
- ✓ ***Organize periodic training for medical staff on the procedure for applying isolation measures;***
- ✓ ***Develop a methodology for the use of physical force and organize training for medical staff.***

3.10. Medications, Medical Supplies, and Waste

The presence of expired medications in psychiatric organizations, as well as violations of medication storage regimes and conditions, and their proper disposal, continue to be a matter of concern.

At "Armash" Mental Health Center, unsatisfactory sanitary and hygienic conditions for medication storage were recorded. In particular, pills were stored outside of blister packs in disposable, ziplock polyethylene bags, with no expiration dates marked on them. Cut blister packs containing medication were also found in these bags, with the section indicating the expiration date also missing, making it impossible to determine the expiration date of the medication. This is problematic from the perspective of controlling medication expiration dates. Additionally, some of the polyethylene bags were worn out, torn, and contaminated, resulting in a high probability of pill contamination. Several pills were also stored in protective bags for intravenous injection kits, which already indicates a failure to ensure proper sanitary and hygienic conditions for pill storage.

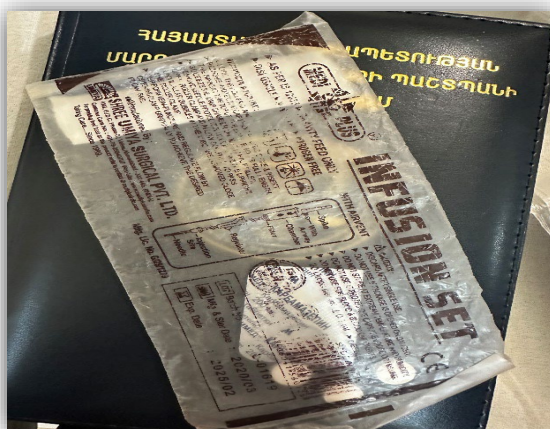
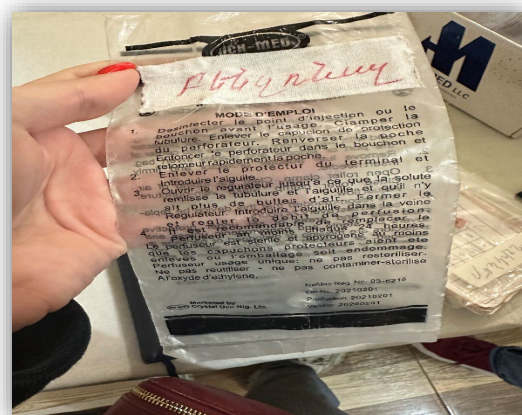
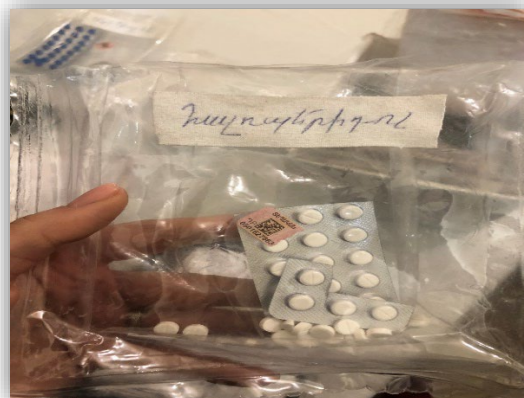
The Defender emphasizes that storing medications in improper sanitary and hygienic conditions can lead to contamination and unsuitability, which is unacceptable and does not stem from the obligation to ensure the right to health of persons with mental health problems.

During the monitoring visit, 2 boxes of expired "Rinza" medication were found in the pharmacy of "Armash" Mental Health Center, and one box of "Acyclovir" ointment and one vial of expired "Camphor oil" were found in the medical intervention room.

The use of expired medications is unacceptable, and proper control should be exercised over the storage of medications.

The Defender welcomes the fact that no issues related to medication expiration dates were recorded in the other monitored psychiatric organizations.

⁷ See on <https://ombuds.am/images/files/cdc79ed63e188008962836823aa696ab.pdf> as of 29.03.2024; paragraph 2.2.3.



Drug storage conditions

According to the information received, during 2023, problems arose in psychiatric organizations and care institutions related to providing necessary psychotropic and somatic medications.

According to information received from Syunik Psychiatric-Neurological Dispensary, due to insufficient financial resources, problems arise with acquiring somatic medications, while the absolute majority of patients in the psychiatric organization have somatic diseases related to cardiovascular, digestive, excretory systems, as well as gynaecological and other issues. The management of the psychiatric organization has expressed concern about organizing proper medical care for patients with somatic diseases.

Moreover, psychiatric organizations have periodically raised the issue of increasing the amount of financial resources allocated for the acquisition of necessary medications, but no steps have been taken in this regard.

At the "Dzorak" Care Center for Persons with Mental Health Problems" SNCO, problems have arisen with the acquisition of the medication "Moditen-depo".

In psychiatric organizations, the purchase of medications is carried out through a centralized tender principle, with predetermined types and quantities of medications. However, when the necessary medication runs out, or there is a need for medications that cannot be planned, the organization cannot acquire them in time and organize effective treatment for patients and care recipients.

Therefore, the policy of providing psychiatric organizations with medications and medical supplies needs urgent revision.

The Defender emphasizes that it is the positive obligation of the state to ensure the necessary conditions for the realization of a person's right to health preservation. The state's inaction may lead to a violation of the right to health preservation of persons with mental health problems kept in psychiatric organizations.

The range of medications in the studied psychiatric organizations was not supplemented with new-generation psychotropic drugs, or they were available in limited quantities and varieties. Meanwhile, their use could be more effective in the treatment process of patients.

Moreover, according to the National Center for Mental Health Preservation, new-generation psychotropic drugs are not used due to their absence in the RA market, while according to the received data, no such problems with their acquisition have arisen in all other psychiatric organizations.

The Defender emphasizes the importance of continuous efforts to ensure the inclusion of new-generation medications in the effective organization of treatment for persons with mental health problems, also taking into account their reduced side effects.

Problems continue to be recorded regarding the accounting of medications transferred to patients by relatives. In particular, unified standards for accounting and storing medications brought by relatives for persons with mental health problems have not been developed in psychiatric organizations, and each organization arranges it in its own way.

For instance, at Gyumri Mental Health Center, according to an internal order of the director, the personal medications of persons with mental health problems are kept together with their personal belongings by the head nurse of the department, and upon discharge, they are handed over to the patient's relative. At the National Center for Mental Health Preservation, all medications brought by relatives for patients are accepted, checked in the presence of the person bringing the medication, and kept by the medical staff.

Thus, there is no unified policy for monitoring medication brought by relatives in psychiatric organizations, which in turn makes it difficult to implement proper control over them.

Another problem has been recorded related to the improper organization of medical waste disposal. For instance, at Syunik Psychiatric-Neurological Dispensary, the legislative requirements related to medical waste disposal have not been met. In the "temporary isolation" department of the aforementioned organization, some medications and medical supplies, as well as medical waste, including sharp (syringes) and pharmaceutical (serum) waste, were kept in places accessible to patients. Moreover, sharp waste was kept in a plastic bottle placed in the corridor of the department, which was open, and only the month and date were noted on the container. The container also lacked the biohazard symbol and the "Caution Sharps" label. Pharmaceutical waste was kept in a medical tray, open and in a place accessible to patients.

It should be noted that in the isolation department of the aforementioned organization, no special area was allocated for the temporary storage of medical waste, and a shelf located in the corridor, accessible to persons with mental health problems, was used for the temporary storage of medical waste, which was not locked.

The stated issues are deeply concerning both in terms of failing to maintain sanitary and hygienic norms for medical waste collection in psychiatric organizations, as well as in terms of providing a safe environment for persons with mental health problems.

Improper storage of medical waste does not contribute to organizing the treatment and care of persons with mental health problems in a safe environment.



Medical waste

Based on the above, it is necessary to:

- ✓ ***Establish proper control over the circulation of drugs and supplies with unknown expiration dates, as well as expired ones, in psychiatric organizations, including their use, in order to exclude any such practice;***
- ✓ ***Ensure proper and safe storage conditions for medications, including psychotropic drugs, in psychiatric organizations;***

- ✓ *Assess the need for necessary medications at the Syunik Psychiatric-Neurological Dispensary and take steps to increase the amount of financial allocation for it;*
- ✓ *Develop effective mechanisms for organizing the procurement of drugs and other necessary supplies;*
- ✓ *Establish clear procedures for transferring medications brought by relatives in psychiatric organizations, including strict control over expiration dates;*
- ✓ *Exclude the accessibility of medical waste to persons with mental health problems, and organize the collection and storage of medical waste in psychiatric organizations according to the provisions of the RA Minister of Health's Order No. 03-N dated March 4, 2008.*

3.11. Drug Treatment

In individual treatment programs for people with mental health problems, drug treatment continues to predominate in various psychiatric organizations. In contrast, alternative treatment programs (art therapy, educational, occupational, work, etc.) are hardly implemented.

In all monitored psychiatric organizations, the absence of individual treatment plans for people with mental health problems is a systemic issue.

During the monitoring visits, it became clear from private conversations with patients that they were mostly unaware of their mental health problems, and treatment plans, and provided medications. During private discussions at the Center, patients mostly denied having mental health problems and only reported taking a certain number or color of pills, but had no information about the medication provided to them, its results, and possible side effects.

According to the jurisprudence of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the CPT), psychiatric care should be based on an individual approach that includes both drug treatment and social-psychological work with the patient. An individual treatment plan should be drawn up for each patient (taking into account the special needs of acute, long-term and forensic patients), which will include information on the nature of the person's mental disorder, treatment goals, methodology, duration, side effects, expected results and responsible medical staff. Patients should be informed about their treatment plans and the progress recorded during treatment. Moreover, they should be involved in the development and implementation processes of these plans.

It is necessary to develop an individual treatment plan for each patient admitted to a psychiatric organization, which will include both the patient's drug treatment and the social-psychological work carried out with them.

The practice of using polypharmacy (drug combinations) without proper justification in psychiatric organizations remains concerning.

Patients are often simultaneously prescribed more than one antipsychotic medication without proper justification, without including an objective description of the patient's mental state and the need for the given medication or their combination. It should be noted that the combination of more than one antipsychotic medication can endanger the patient's health due to the side effects of the combined antipsychotic drugs, particularly the manifestation of extrapyramidal symptoms.

For example, at the "Armash" Mental Health Center, one of the patients was continuously administered a number of antipsychotic drugs for at least 10 days: "Haloperidol" (simultaneously in the form of injections and pills), "Triftazin", "Azaleptin". Moreover, 2 of the prescribed antipsychotic drugs are classified as first-generation neuroleptics. They were also prescribed a solution of "Sibazon" and "Cycladol" pills. There was no justification in the patient's medical history regarding the need for simultaneous administration of these drugs.

Studies of patients' medical histories at the "Armash" Mental Health Center show that newly admitted patients mostly receive a bundle of antipsychotic drugs in the first ten days, after which their drug treatment regimen is mitigated.

In these cases, no clinical assessment was carried out on the patients, which included a physical examination of the patient and laboratory-instrumental examinations.

Without clinical observation and assessment, the combination of several antipsychotic drugs without proper justification can increase the risk of side effects (extrapyramidal and other disorders) of the drugs taken.

Based on the above, it is necessary to:

- ✓ ***Develop an individual treatment plan for each patient admitted to a psychiatric organization, which will include both the patient's drug treatment and the social-psychological work carried out with them.***
- ✓ ***Review the simultaneous prescription of several antipsychotic drugs, especially in the case of first-generation neuroleptics.***
- ✓ ***Develop clinical guidelines for the organization of examinations and treatment of people with mental health problems.***

3.12. Non-Drug Treatment And Psychological Assistance

In order to ensure the effectiveness of treatment for people with mental health problems and their reintegration into society, it is important to combine drug treatment with non-drug treatment methods, including psychotherapy and occupational therapy.

Studies conducted during the monitoring visits indicate that drug treatment (pharmacotherapy) and efforts to contain the spread of diseases predominate in psychiatric organizations.

Failure to use alternative treatment methods can have a negative impact on the provision of psychiatric care to people with mental health problems and their reintegration.

The results of the studies allow us to conclude that social and psychological support for people with mental health problems is secondary and does not receive proper importance. This is evidenced by the observations below.

First of all, it is necessary to address the insufficient number of psychologists in psychiatric organizations - the presence of a vacancy (Armash Health Center) or the complete absence of a psychologist position (Syunik Psychiatric-Neurological Dispensary). The insufficient number of psychologists can directly affect the quality and effectiveness of the work performed, and the absence of a psychologist position in a psychiatric organization is a serious cause for concern.

Thus, it is necessary to increase the number of psychologist positions with appropriate narrow specialization or training in psychiatric organizations.

As a result of studies conducted during the monitoring visits, it was recorded that there is no procedure for organizing psychological work in psychiatric organizations. The psychologist does not make planned visits, does not have a clear list of responsibilities, there is no formal mechanism for cooperation with psychiatrists, there are no norms regulating the scope of planned work, and the patient's comprehensive treatment strategy does not include psychological and socio-psychological intervention. The psychologist assesses the need for psychological work with people with mental health problems based on their observations in daily interactions and, accordingly, organizes their daily work activities (Armash Health Center).

In the context of the above, it is necessary to develop a clear list of psychologists' responsibilities in psychiatric organizations, a set frequency of individual and group psychological work with patients, norms regulating the work, and a clear form of accountability for the work performed. It is also very important to develop an individual work plan for each patient, aimed at the needs and development of abilities of that patient, etc.

In psychiatric organizations, adequate perception of the psychologist's role and the boundaries of their activities by both other employees of the organization and persons receiving treatment or care in psychiatric organizations also deserves special attention. For example, at the Armash Health Center, the psychologist wore a white coat during the implementation of work activities, and the ways visitors perceived the psychologist's role and addressed them were also unclear.

Adequate perception of the psychologist's role and the boundaries of their activities by persons with mental health problems is the basis for therapeutic relationships, the organization of further work, and ensuring their effectiveness.

Within the framework of monitoring visits, it was recorded that the issue of the lack of properly furnished rooms designed for individual and group psychological work, built on the basis of the peculiarities of psychological work, continues to be a concerning systemic issue in psychiatric organizations, which deserves special attention from the perspective of working with people with mental health problems. The absence of the rooms described above is a highly limiting factor in terms of ensuring professional and consistent psychological work. A room intended for organizing individual psychological work was available only on the first floor of the Armash Health Center. However, there was an inscription "Doctors' Room" on the right side of the entrance door, which could also cause a misperception of the psychologist's role.

And for the purpose of conducting group psychological work, no room was provided at all, and group psychological work was carried out in the corridors of the departments (at the Armash Health Center).

Thus, it is necessary to provide properly furnished rooms necessary for the organization of psychological work (including group work) in psychiatric organizations, to review the furnishings, layout, and external and internal decoration of the existing rooms.

It should be noted that the lack of a single unified diagnostic methodological package intended for persons with mental health problems in psychiatric organizations continues to be relevant (Armash Health Center).

The presence of a single unified diagnostic methodological package in psychiatric organizations, and based on the specifics of the psychiatric organization, also diagnostic methodological packages specific to the patients of that organization, can ensure both competent diagnosis and the effectiveness

of treatment in accordance with the diagnosis and individual treatment plans, as well as the ability of psychiatric organizations to communicate with each other in a single professional language (especially in cases where a person is transferred from one psychiatric organization to another for various reasons).

Studies show that records of the work performed by psychologists in psychiatric organizations continue to not reflect the work performed, its purpose, the further course of planned work and results (Armash Health Center).

The psychologist does not maintain individual cards for visitors, where information about the essence and dynamics of psychological work would be collected. Although there are still no unified forms filled out by psychologists and approved by the RA Ministry of Health, and each psychologist decides which form to maintain, in what way, with what frequency and purpose, nevertheless, in this case, in the absence of appropriate records on the work performed, it turns out that a therapeutic intervention is carried out on the person at the Center, that is, psychological work, which, however, is not reflected or documented in the visitor's medical documents, which is problematic.

Thus, it is necessary to develop unified forms to be filled out by psychologists and approved by the competent authority in psychiatric organizations.

During the monitoring visits, it was recorded that joint discussions between psychologists and psychiatrists in psychiatric organizations are carried out orally, and no minutes are drawn up about it (Armash Health Center).

It is necessary to develop unified mechanisms for recording and monitoring the joint work of psychologists and psychiatrists, as well as to ensure organized cooperation between the psychological service and the medical staff. Structural and regular cooperation of the multidisciplinary team can contribute to increasing the effectiveness of the work carried out in psychiatric organizations and more effective organization of further work.

During the monitoring visits, it was recorded that, for example, at the Armash Health Center, the psychologist is present during the application of restraint measures, which is unacceptable and can have a negative impact on the further relationship between the psychologist and the visitor (lack of trust, vulnerability, a sense of punishment, shame, etc.).

Thus, it is necessary to exclude the presence of a psychologist during the application of restraint measures, on the contrary, to ensure their work with the visitor after the application of the restraint measure, in order to assess their psychological state and carry out the necessary psychological work.

It is noteworthy that non-drug treatment methods such as art therapy and occupational therapy are not carried out in psychiatric organizations due to the lack of necessary means (Armash Health Center and Syunik Psychiatric-Neurological Dispensary). Music therapy is carried out at the Syunik Psychiatric-Neurological Dispensary, which in itself is welcome. At the same time, as a result of the studies carried out, reasonable doubts have arisen regarding the competent organization and effectiveness of music therapy. This is also evidenced by the studies of the corresponding log.

Music therapy should have a toolkit for assessing the participants of music therapy by a specialist with appropriate training, for its effective organization and for assessing its effectiveness, which was absent at the Syunik Psychiatric-Neurological Dispensary.

Thus, it is imperative to organize alternative therapy for patients in psychiatric organizations, observing the procedure, goals, etc. of the implementation of alternative therapy.

Studies conducted during the monitoring visits indicate that professional psychological work with family members of persons with mental health problems is not provided in psychiatric organizations, meetings with family members are of a formal nature, and there are also no corresponding records of these meetings. Competent professional intervention in the direction of re-socialization of persons with mental health problems is also not provided (Armash Health Center and Syunik Psychiatric-Neurological Dispensary).

Thus, the psychological work aimed at the re-socialization of patients, as well as the work carried out with their family members, does not correspond to the relevant criteria in the field.

During the monitoring visits, it was also recorded that such an important component of the professional activities of supporting specialists as participation in supervision is not provided for psychologists working in psychiatric organizations (Armash Health Center). The above can serve as a basis for reducing the effectiveness of the psychologist's work, and vulnerability, as a result of which the formation of emotional burnout syndrome is inevitable, which can harm both the specialist and the visitors.

Taking into account the above, it is necessary to:

- ✓ *Increase the number of psychologist positions with appropriate narrow specialization or training in psychiatric organizations.*
- ✓ *Establish clear procedures for organizing the work of a psychologist, and a certain frequency of meetings, which, taking into account the peculiarities and difficulties of organizing psychological work with persons with mental health problems, is of particular importance.*
- ✓ *Ensure communication between psychologists and visitors based on the principles of professional ethics, if necessary, review the purpose and boundaries of the psychologist's professional activity.*
- ✓ *Provide properly furnished rooms necessary for the organization of psychological work (including group work) in psychiatric organizations, and review the furnishings, layout, and external and internal decoration of the existing rooms.*
- ✓ *Develop a single unified psychological diagnostic package, ensuring the targeted use of psychodiagnostic methods.*
- ✓ *Develop a single unified structural and substantive mechanism for recording psychological work with patients.*
- ✓ *Form a culture of cooperation between psychiatrists, psychologists and other narrow specialists and develop a documentary system of that cooperation.*
- ✓ *Review the professional activity of a psychologist in case of application of restraint measures, and develop certain procedures in that direction.*
- ✓ *Organize alternative therapy for persons with mental health problems in psychiatric organizations, observing the procedure and goals of the implementation of alternative therapy.*
- ✓ *Ensure compliance of psychological work aimed at the re-socialization of patients, as well as the work carried out with their family members, with the relevant professional criteria.*

3.13. Opportunity To Use Narrow Specialized Medical Services

The legislation of the Republic of Armenia does not define a clear list of doctors with narrow specialization (except for psychiatrists) and medical staff in psychiatric organizations and their ratio to patients. In some psychiatric organizations, positions for certain specialists are provided according to preference in order to provide narrow specialized medical services. In another group of psychiatric organizations, in case of necessity, narrowly specialized doctors are invited or patients are transferred to territorial non-specialized or primary healthcare medical organizations providing medical assistance and services.

It should be noted that the list of narrow specialists varied in the monitored psychiatric organizations. Thus, in order to provide patients with narrowly specialized services, positions for therapists (Sevan, "Avan", Armash Mental Health Centers, National Center for Mental Health, Vardenis Neuropsychological Boarding House), surgeons (Sevan Mental Health Center), cardiologists (Sevan, Avan, Armash Mental Health Centers, National Center for Mental Health), gynaecologists, STI specialists (Sevan Mental Health Center), dentists (Vardenis Neuropsychological Boarding House, Sevan, Dzorak Mental Health Center), neurologists ("Avan" Mental Health Center, National Center for Mental Health), endocrinologists (Avan Mental Health Center), epidemiologists (Armash, Avan Mental Health Center) were provided.

In the staffing lists of other psychiatric organizations, there were no positions for narrow specialists, and contracts were concluded with territorial non-specialized or primary healthcare medical organizations providing medical assistance and services for the use of narrow specialized medical services.

Often, difficulties arise in transferring patients of psychiatric organizations to other medical institutions, both in terms of providing vehicles and human resources.

Non-uniform approaches to the positions of narrowly specialized doctors in psychiatric organizations and the various difficulties in using these services do not contribute to ensuring the right to health protection of a person with mental health problems.

Another issue is related to the provision of narrowly specialized services in psychiatric organizations.

For example, a study of the notebook "For Somatic Injections" kept by nurses at the "Armash" Mental Health Center revealed that patients are subjected to various drug treatments, including antibacterial ones, for which in some cases there were no records in the medical histories, and their use was not justified by a specialist doctor. Moreover, even for the mentioned days, there were no records (courses) made by the therapist regarding the course of the patient's illness.

In fact, in the studied cases, patients receive drug treatment for somatic complaints, which are not substantiated by narrowly specialized consultations in the medical histories.

This practice contradicts the requirements of the legislation, and the prescription of medications without a valid reason contains a number of concerning risks.

The organization of dental or gum treatment, as well as prosthetics, for people with mental health problems kept in psychiatric organizations, continues to be considered a universal problem. In particular, in almost all psychiatric organizations, dental care is organized at the patient's expense, and in case the

patient (care recipient) does not have social ties, in cases of extreme necessity, at the expense of the psychiatric organization.

During a monitoring visit to the "Armash" Mental Health Center, it was recorded that patients use dental services in extreme cases, and the difficulties in using them are diverse. There is no dental office providing dental services in the area where the organization is located, and private dental offices operating in neighboring communities refuse to serve people with mental health problems due to difficulties in working with them. It should be emphasized that due to the difficulties in accessing dental services, the therapist in the mentioned psychiatric organization also provides "dental" consultation.

According to the information received from the Vardenis Psychiatric-Neurological Boarding House, although patients are provided with dental surgical and therapeutic assistance by the dental service of the nursing home, the dental medical assistance services guaranteed by the state free of charge and on preferential terms (prosthetics) are not provided in the Vardenis community due to the absence of relevant contracts, as a result of which prosthetics services are not provided to patients at all.

In fact, even though dental services are available in some psychiatric organizations, dental care for people with mental health problems is not organized in full, which is extremely concerning.

There are also financial difficulties in co-payment for basic dental services.

It should be emphasized that dental problems can lead to malnutrition and have negative consequences.

Thus, patients receiving treatment and care in psychiatric organizations have limited access to dental services, which is highly concerning.

Issues related to the organization of inpatient treatment in non-specialized medical institutions for somatic problems of people with mental health problems also continue to be concerning.

In cases of transferring patients from psychiatric organizations to a non-specialized medical institution, a representative of the nursing staff of the psychiatric organization always accompanies the person with mental health problems throughout the entire course of treatment in another medical center.

Thus, an additional burden is placed on the nurse of the psychiatric organization. It turns out that the representative of the medical staff takes care of the patient for a long time, away from their place of residence and family. This is also concerning in terms of providing food, medication, and hygiene items for the patient and the healthcare worker, as well as maintaining the latter's social ties.

It should be noted that some psychiatric organizations refuse to provide care services to people with mental health problems receiving inpatient treatment in medical institutions (Gyumri Mental Health Center, Syunik Psychiatric-Neurological Dispensary), citing the small number of medical staff and the lack of a legally stipulated obligation.

Moreover, when a patient is transferred from the "Avan" Mental Health Center to another medical organization for inpatient treatment due to a somatic illness, the patient is simply discharged, and their further supervision is carried out by the psychiatrist of that organization or the district psychiatrist.

The Defender considers it concerning that sometimes, due to difficulties in providing care services, patients are admitted to non-specialized medical centers with difficulty or are discharged from a psychiatric organization without final recovery.

Taking into account the above, it is necessary to:

- ✓ *Develop clear mechanisms for properly organizing inpatient treatment and care of people with mental health problems in other medical centers due to somatic illness in organizations providing psychiatric medical assistance and services.*
- ✓ *Establish a unified framework of staff narrow specialists in psychiatric organizations, ensuring a uniform approach to the provision of services.*
- ✓ *Properly organize dental care for people with mental health problems in psychiatric organizations, including prosthetics.*
- ✓ *Ensure the availability of dental medical assistance services guaranteed by the state free of charge and on preferential terms in the Vardenis community.*

3.14. Maintenance Of Medical Records And Organization Of Medical Interventions

During the monitoring visits in 2023, cases of improper maintenance and omissions in patients' medical histories continue to be recorded.

It was also recorded in psychiatric organizations that in some cases, the data on the patient's health condition described in the medical history did not correspond to reality.

In particular, a study of a patient's medical history at the Sevan Mental Health Center revealed that the initial medical examination recorded "hearing loss", but during a private conversation with the Defender's representatives, the patient perceived speech, communicated easily, and no signs of hearing loss were noticed. Representatives of the medical staff were also present during the conversation, who also expressed surprise at the discrepancy between the case and the record.

A study of a patient's medical history at the "Armash" Mental Health Center revealed that the patient was prescribed medication, but the patient's mental state was not described and the need for prescribing the medication was not justified.

In all monitored psychiatric organizations, numerous cases were recorded when the records of the description of the medical history, including the records of the patient's initial examination, were not confirmed by the signatures of the doctors who performed the medical examination.

Improper maintenance of medical records is problematic in terms of ensuring and monitoring the rights of persons with mental health problems, as well as assessing the justifications for a person's proper treatment or restriction of rights.

Studies conducted during monitoring visits to psychiatric institutions show that medical histories are filled out in different formats and frequencies in different institutions.

Mainly, during the first days of admission to a psychiatric organization, patients are observed and recorded daily, and in case the patient's condition stabilizes, as well as in patients receiving care, records on the course of the disease are made only once a month. According to the medical staff, apart from the above-mentioned schedule, records are made in the medical histories when there is a need to change the medication prescribed to a person with mental health problems (Armash, Sevan Mental Health Centers).

In the medical histories of patients at the Syunik Psychiatric-Neurological Dispensary, general, unclear data on a person's mental state were recorded over a period of one month or longer, which creates difficulties in recording the justifications for prescribing medication to a person with mental health

problems by a psychiatrist, as well as in exercising proper control over specific cases, the need to prescribe medication indicated for a specific patient and its justification.

Along with all this, in cases of keeping people with mental health problems in psychiatric organizations for a long time, the pages of medical histories are usually not sufficient, as a result of which additional pages are added to the histories. There are no unified rules or practices in this matter either.

The highly differentiated approach to maintaining medical history descriptions in psychiatric centers continues to be concerning.

The issue of the absence of legal regulations on the forms of medical documents, their maintenance, as well as the frequency and procedure of medical examination of wards in special type (specialized) care institutions continues to be concerning.

In connection with the issue, the RA Ministry of Labor and Social Affairs reported that the Vardenis Neuropsychological Boarding House, as well as the "Dzorak" Care Center, have developed a sample form of a medical card for beneficiaries in need of 24-hour care, which is still in the discussion stage.

Summarizing the above, it is necessary to:

- ✓ ***Establish unified criteria for maintaining medical records in psychiatric organizations and ensure their proper maintenance, as well as establish strict control over them.***
- ✓ ***Develop forms of medical documents and the procedure for their maintenance in special type (specialized) care institutions.***
- ✓ ***Establish the frequency and procedure of medical examination of wards in special type (specialized) institutions.***

3.15. Medical Staff, Working Conditions And Social Guarantees

During the monitoring carried out by the National Preventive Mechanism, vacancies, as well as insufficient and disproportionate distribution of positions have been recorded for years.

There were vacancies for psychiatrists at the Armash and Sevan Mental Health Centers, as well as at the Vardenis Neuropsychological Boarding House.

During the monitoring visit, it became clear that three psychiatrists worked at the Syunik Psychiatric-Neurological Dispensary (one of them combines the position of director). Moreover, they serve the entire Syunik region as a dispensary service.

It is obvious that the number of psychiatrists in inpatient psychiatric organizations is extremely small, and it is almost impossible to provide professional supervision and individual support to patients, as well as to treat them.

It should be emphasized that the scarcity of psychiatrists and the daily work overload do not allow them to engage in self-development, get acquainted with innovative treatment methods, receive additional professional education and undergo training, as well as prevent or overcome emotional burnout in the workplace. As a result, doctors are forced to limit their professional functions, be guided by outdated treatment methodologies, be cut off from professional growth, and face psychological and emotional exhaustion. This significantly hinders the ability of patients to receive psychiatric support in accordance with modern international standards.

Another problem is the insufficiency of nursing and junior medical staff positions.

During the monitoring visit, it became clear that at the Armash Mental Health Center, where 85 people with mental health problems receive treatment and care, only 4 employees are on duty at night (1 nurse, 1 male orderly, 1 female orderly, and 1 duty officer). It is obvious that under such conditions, it is impossible to properly organize the care and supervision of patients, and there is a need for additional staff positions.

According to the information received from the Armash Mental Health Center, in order to establish an optimal ratio of patients and medical staff, it is necessary to supplement the staffing list of the psychiatric organization with new positions, which are not organized due to the lack of financial resources.

It should also be noted that a study of the positions at the Vardenis Neuropsychological Boarding House, as well as the Dzorak Care Center, revealed that the number of medical staff positions did not correspond to the norms of staff units for specialists in social protection institutions of the population established by the RA Government Decision No. 1744-N of November 10, 2022. Thus, psychiatric assistance and service for 453 wards of the Vardenis Neuropsychological Boarding House was organized by two psychiatrists (moreover, one psychiatrist worked part-time), and psychiatric assistance for 179 wards at the Dzorak Care Center was provided by one psychiatrist in the case when the above-mentioned Government Decision provides for at least 1 psychiatrist position per 150 beneficiaries.

It should be noted that although such a regulation has been established for special care institutions, nevertheless, the above-mentioned Government Decision does not provide for a mandatory list of doctors with narrow specialization in social protection institutions of the population, as a result of which the staffing list of each care institution includes positions of medical specialists according to the preference of the institution.

It should be emphasized that the issue of the absence of legal regulations defining the ratio of patients and medical or service personnel in relation to psychiatric organizations remains problematic.

The disproportionate number of employees and people with mental health problems in psychiatric organizations does not contribute to the process of properly organizing their care and medical and psychological assistance.

A study of the staffing list of the Sevan Mental Health Center revealed that at the time of the visit, only one cook and two assistants were involved in the work of the kitchen serving 343 patients, and in the Syunik Psychiatric-Neurological Dispensary providing inpatient treatment to 80 patients, there was one cook and one assistant, while patients were provided with food four times a day in the organization. Under such conditions, the cook and the assistant worked without days off and hours of rest. This is highly concerning both in terms of the cook's work overload and ensuring the quality of food provided to patients.

It should also be noted that there were no positions for a social worker and a clinical psychologist at the Syunik Psychiatric-Neurological Dispensary.

It is noteworthy that the administration raised a number of issues that were directly in the professional field of a social worker, but at the same time, the administration noted that the above-mentioned center does not need a social worker.

The administration mostly considered the presence of a social worker in the community and, if necessary, their intervention and support. The administration also raised the issue of difficulties in

discharging patients who have completed treatment, interpreting this circumstance by the absence of their social ties. In this matter, too, a social worker can play a big role.

A psychiatric center should not only be a medical institution providing pharmacotherapy but also contribute to the social and psychological well-being and recovery of patients. However, under the conditions of vacancies and without narrowly specialized professionals, it is impossible to properly organize such a function.

During the monitoring visit, insufficient working conditions for employees of psychiatric organizations were recorded.

Thus, at the Armash Mental Health Center, the employees' offices and the restrooms intended for them needed renovation, and there was no permanent hot water in the doctors' room. Moreover, during the visit, nurses' uniforms were hung in one of the patient rooms, as they had no other option.

During the monitoring visit to the Syunik Psychiatric-Neurological Dispensary, the organization's employees had to organize their breaks in the restroom (gym) intended for patients in the absence of a canteen.

The Defender emphasizes that it is also important to organize periodic training for medical personnel in psychiatric organizations, which will contribute to the development of their abilities and skills. Training in the organization of professional work should be periodic and cover issues related to the protection of the rights of persons with mental health problems, the proper organization of medical assistance and services, procedures established by law, and international standards.

It is also necessary to thoroughly improve the system of social guarantees for employees of psychiatric organizations, including salaries.

Therefore, in order to solve the above-mentioned problems, it is necessary to:

- ✓ ***Take measures to fill vacancies, as well as to involve the necessary specialists and sufficient personnel in the work of psychiatric organizations.***
- ✓ ***Establish a mandatory scope of staff narrow specialists in social protection institutions, ensuring a unified approach to the provision of services.***
- ✓ ***Establish norms for staff units of specialists in psychiatric organizations.***
- ✓ ***Carry out continuous work towards improving the working conditions and social guarantees of employees of psychiatric organizations.***
- ✓ ***Carry out necessary renovation work in the restrooms and offices intended for employees of the Armash Mental Health Center, ensuring sufficient working conditions for them.***
- ✓ ***Periodically organize professional training and courses for the medical staff of psychiatric organizations.***
- ✓ ***Improve the system of social guarantees for employees of psychiatric organizations, including salaries.***

3.16. Overcrowding And Ensuring A Safe Environment

Problems related to overcrowding of patient rooms were recorded at the Armash Health Center, Syunik Psychiatric-Neurological Dispensary, and Sevan Mental Health Center. The minimum living space for each person with mental health problems, stipulated by the RA legislation and international standards, is not provided in the patient rooms.

During the monitoring visits, it was recorded that the areas of the rooms in psychiatric organizations do not correspond to the number of beds, as a result of which sufficient personal space was not provided for people with mental health problems.

At the Armash Health Center and Syunik Psychiatric-Neurological Dispensary, the beds were placed in violation of the requirements of Clause 5 of the Appendix to Order No. 01-N of the RA Minister of Health dated January 4, 2022 "On defining the conditions necessary for the living of a person with a mental health problem in a psychiatric organization", that is, the condition of providing at least 4-6 square meters of space per bed for a person with a mental health problem in a patient room was not observed.

At the time of the visit to the Armash Health Center, there were 9 beds in the 31.7 square meter patient room of the men's department (3.5 square meters per person), and in the 27.6 square meter patient room, about 2 square meters of which is occupied by the restroom, 7 beds were placed (3.7 square meters per person). The institution's other patient rooms with an area of 15-17.4 square meters were intended for 5 people with mental health problems (3 to 3.48 square meters per person).

In the Syunik Psychiatric-Neurological Dispensaries, 9 beds were placed in the 33.1 square meter patient room of the women's department (3.7 square meters per person), 6 beds in the 19.94 square meter patient room (3.3 square meters per person), 7 beds in the 21.7 square meter patient room (3.1 square meters per person), 5 beds in the 20.27 square meter patient room (4.05 square meters per person). In the men's department, 5 people with mental health problems were kept in a 19.58 square meter patient room (the area provided for each person was 3.9 square meters). At the time of the visit, 80 people with mental health problems were receiving inpatient treatment at the mentioned institution, but according to the assurances of the administration, due to being the only psychiatric organization in the region, they are sometimes forced to admit a larger number of patients for treatment and care.

At the time of the visit to the Sevan Mental Health Center, a separate department was intended to be opened for people with mental health problems forcibly displaced from Nagorno-Karabakh, where in almost all patient rooms the beds were dense, some were tightly arranged. It is welcome that the state is carrying out work to guarantee the rights of these persons. At the same time, in case of being placed in the mentioned department, people with mental health problems may have limited living space and be deprived of the opportunity to have personal space, which should receive sufficient attention.

According to paragraph 142 of the CPT's 2016 report on the former Yugoslav Republic of Macedonia, as a result of a study on the level of occupancy in a psychiatric institution, it was revealed that 8 people with mental health problems were kept in a room with an area of 36 square meters. In this regard, the CPT called on the authorities of the former Yugoslav Republic of Macedonia *to make efforts to improve the living conditions of persons held in psychiatric institutions, in particular, to increase the area of living space available to each person with mental health problems (at least 6 square meters per person in multi-occupancy rooms).*



Overcrowding

According to paragraph 108 of the CPT's 2017 report on Latvia, a study conducted in a psychiatric institution revealed *that 8-10 people with mental health problems were kept in the rooms of one of the institution's departments with beds placed too close to each other. As a result, the persons held in the mentioned department had limited living space and were deprived of the opportunity to have personal space.* The CPT emphasized that *the presence of such conditions can have a negative impact on the persons held there, violating their right to have personal space.*

In the Armash Health Center and the women's department of the Syunik Psychiatric-Neurological Dispensary, almost all patient rooms were overcrowded, with beds densely arranged, very close to each other or tightly placed. In the mentioned institutions, there were beds placed very close to each other (in the Armash Health Center, also connected to each other), which blocked the main central passages of

the rooms, and in the Syunik Psychiatric-Neurological Dispensary, beds were also placed near the entrances of the rooms, half-blocking them.

This is unacceptable and does not contribute to the formation of a proper physical and mental, as well as safe environment.



Patient rooms

In this regard, it should be noted that according to Clause 152 of Appendix 1 approved by Order No. 595-N of the Minister of Territorial Administration and Emergency Situations of the Republic of Armenia dated June 18, 2015 "On approving the fire safety rules and recognizing the Order No. 263-N of the Minister of Emergency Situations of the Republic of Armenia dated July 26, 2012, as invalid", *the distance between beds in patient rooms should be at least 0.8 meters, and the width of the main central*

passage should be at least 1.2 meters. Chairs, cabinets and other furniture should not overload the evacuation routes and exits.



Overcrowding

Even though a fire protection system was introduced in the Syunik Psychiatric-Neurological Dispensary, and the Armash Health Center took effective steps to introduce it, nevertheless, non-compliance with the above-mentioned criteria already violates the fire safety rules.

Based on the above, it is necessary to:

- ✓ ***Review the possibilities of the bed fund of psychiatric organizations, ensuring the requirements of the legislation.***
- ✓ ***Reduce the level of occupancy in patient rooms, providing individual living space for each person with mental health problems.***
- ✓ ***Exclude the presence of beds connected, tightly or very closely placed in psychiatric organizations.***
- ✓ ***Take steps to gradually transform large patient rooms into smaller rooms.***
- ✓ ***Rearrange the beds in the patient rooms so that the fire safety rules are observed, in particular, ensure a distance of at least 0.8 meters between them, and the width of the main central passage is not less than 1.2 meters.***

3.17. Living Conditions

At the Armash Health Center, the concrete floors of patient rooms were covered with carpets, and the old aluminium windows were lined with polyethylene on the inside to maintain the thermal regime in the rooms. In the Syunik Psychiatric-Neurological Dispensary, the floors of patient rooms were wooden and worn out.

It should be emphasized that renovation work has been carried out at the Syunik Psychiatric-Neurological Dispensary, particularly the replacement of the facility's windows with metal-plastic ones, and the construction of an intervention room adjacent to the reception area, which is commendable. Nevertheless, the living conditions in the wards continue to remain unsatisfactory.



Living conditions



Iron mesh barrier

In the aforementioned psychiatric organizations, the plaster on the walls and ceilings of patient rooms was peeling off, cracks were visible on the walls, and the facilities needed complete renovation. In some patient rooms, artificial lighting was insufficient.

The furniture in the patient rooms was also insufficient in quantity and worn out, as were the doors of the patient rooms, and not all patient rooms were equipped with wardrobes. The facilities still had iron and worn-out beds, which needed to be urgently replaced with new ones. In the Syunik Psychiatric-Neurological Dispensary, the bedding (foam mattresses, pillows) and linen were also worn out.

It should be noted that metal protective nets and grilles were attached to the outside of all windows in patient rooms, bathrooms, and corridors of the Syunik Psychiatric-Neurological Dispensary. Moreover, an iron mesh barrier has been constructed about one meter away from the outer wall of the department located on the first floor of the building, which limits the possibility of contact between patients and their relatives, even when visits are restricted for epidemiological reasons.

During monitoring visits, it was recorded that not all persons with mental health problems kept in psychiatric organizations are provided with bedside cabinets. In most patient rooms, the number of bedside cabinets did not correspond to the number of beds or persons kept there, usually being one or two fewer. Moreover, in one of the patient rooms of the Syunik Psychiatric-Neurological Dispensary, bedside cabinets were completely absent.



Living conditions

In the studied institutions, cabinets with broken doors and worn-out bedside cabinets were also recorded, and many of them did not have doors at all. Due to the overcrowding of patient rooms, in several rooms, two bedside cabinets were placed on top of each other. Due to the insufficient number of bedside cabinets and wardrobes in the patient rooms, as well as the lack of personal space, people with mental health problems at the Armash Health Center were forced to keep their belongings, including

clothing, in bags, on beds, or under them, while at the Syunik Psychiatric-Neurological Dispensary, their belongings were kept in a separate storage room of the department.

Such conditions are unacceptable and violate the right to dignified treatment of a person and the inviolability of their private life.

In this regard, according to point 7 of Order N 01-N of the Minister of Health of the Republic of Armenia dated January 4, 2022, *the patient room should be furnished with a bed for each person, a bedside cabinet with locking capability for storing personal items and belongings, as well as a wardrobe or device where the clothing of a person with mental health problems can be stored.*

Thus, the legislative requirement for the presence of bedside cabinets with locking capability, as well as wardrobes or other devices in patient rooms, is not being met.

In paragraph 121 of its 2016 report on Armenia, the CPT noted that *“in both the women's and men's wards of the Gyumri Mental Health Center CJSC, personal space was not provided, in particular, persons with mental health problems did not have personal space with locking capability”*. The CPT recommended that the Armenian authorities *take the necessary measures to provide all persons with mental health problems kept in the Gyumri Mental Health Center with personal space with a locking capability where they can keep their belongings.*

During monitoring visits, problems with patients' access to drinking water were also recorded. In the patient rooms of the Armash Health Center, sinks and water taps were installed, but conflicting information was received about the potability of the water flowing from them. In particular, some patients indicated that the water from the taps was not suitable for drinking, and they used it only for washing, while others reported drinking the water from the taps.

According to the management of the Armash Health Center, the water supply issue in the Armash community is not yet fully resolved, and to mitigate the problem of water outages in such conditions, they have installed plastic tanks on the facility's premises. Some people with mental health problems took drinking water from the water tank installed in the canteen corridor and collected it in plastic bottles.

In the temporary isolation ward of the Syunik Psychiatric-Neurological Dispensary, due to the absence of a water dispenser, patients drank water from bathroom sinks. This situation is also problematic in the sense that not all patients had individual drinking water cups. In the women's ward, the water dispenser was installed in the kitchen, which was locked and opened as needed. It should be emphasized that due to this circumstance, patients preferred to take drinking water from bathroom sinks. This approach is concerning because in such conditions, people with mental health problems are unnecessarily dependent on the staff of the psychiatric organization, and patients' access to drinking water depends on the discretion of the latter. In the same ward, in the kitchen near the water dispenser, one ceramic cup for drinking water was placed, which, according to the staff, patients used to take water from the dispenser and pour it into their use cups. However, it should be noted that not all patients had individual use cups that they kept with them at all times, so the aforementioned ceramic cup was used by different individuals, which is extremely problematic.

During the monitoring visit to the Armash Health Center, issues related to ensuring proper thermal regime were recorded. The thermal regime in the facility's patient rooms was provided by electric heating batteries, which were present in all studied patient rooms. On the first floor of the facility, a room was set aside which, according to staff, served as a smoking room. According to the information received, in cold weather conditions, a wood stove is installed in this room, around which people with mental health

problems gather to warm up. Staff noted that the psychiatric organization's laundry is also dried in this room, as there is no possibility of drying laundry elsewhere in cold and rainy weather conditions.

During private conversations with the Ombudsman's representatives, people with mental health problems reported that the electric heating batteries in the patient rooms are turned on in cold weather conditions, but due to the worn-out windows covered with polyethylene film and balcony doors, the proper thermal regime is often not maintained in the rooms, and they go to the aforementioned room equipped with a stove to warm up.

The Ombudsman emphasizes that such living conditions recorded in psychiatric organizations are unacceptable. Ensuring necessary and sufficient conditions for the normal life of people with mental health problems is crucial and serves as an important therapeutic factor in improving patients' mental state.

Considering the above-mentioned issues, it is necessary to:

- ✓ ***Carry out renovation work in psychiatric organizations to ensure proper conditions for people with mental health problems;***
- ✓ ***Continue to update the bed stock of the facilities, replacing all worn-out and iron beds with new ones;***
- ✓ ***Provide patient rooms with sufficient furniture - bedside cabinets and wardrobes;***
- ✓ ***Provide all persons with mental health problems kept in the facilities with personal space with locking capability where they can keep their personal belongings;***
- ✓ ***Ensure access to drinking water for all persons kept in psychiatric organizations, excluding the use of water not suitable for drinking by the latter;***
- ✓ ***Exclude the presence of shared utensils (drinking water cups, etc.) in the wards of psychiatric organizations;***
- ✓ ***Take steps to ensure proper thermal regime in the patient rooms of the Armash Health Center.***

3.18. Organization Of Laundry And Bathing, Ensuring Hygiene And Sanitary Conditions

At the Armash Health Center, laundry was done using washing machines installed in the bathrooms and dried in the yard area. According to information provided by staff, in cold and rainy weather conditions, laundry is dried around the wood stove. The already washed bedding and clothing drying in the yard area were dirty, worn out, and in some places torn.

At the Syunik Psychiatric-Neurological Dispensary, laundry was done using washing machines installed in the laundry room and dried in a designated area in the facility's yard. It should be noted that the Syunik Psychiatric-Neurological Dispensary's laundry room had disinfection technical equipment, and patients' clothing was disinfected.

In the above-mentioned psychiatric organizations, the bedding of persons with mental health problems was changed once every two weeks, and for patients with bedwetting - as needed.



Laundry

At the Armash Health Center, bathing for persons with mental health problems was mainly organized once a week in the laundry room serving as a bathroom on the first floor, which was equipped with washing machines, sinks, a bathtub, and one shower with a plastic tank attached to the ceiling. It should be noted that the above-mentioned laundry bathroom also served as a smoking room. According to the information received, bathing is not organized in the bathrooms on the first and second floors of the facility, as the electric water heating geyser systems installed there do not heat the water sufficiently.

During private conversations, patients reported that bathing in the laundry bathroom is organized in groups of 2-3 people, specifically, while one patient is under the shower, the other patients soap their bodies and, taking turns, take a shower. At the same time, there was a transparent window in the said

laundry bathroom, and other patients could freely observe the bathing process from the outer part of the building - from the yard.

Such a practice of organizing bathing is unacceptable and can lead to a violation of the right to privacy and degrading treatment of persons with mental health problems. It is noteworthy that this issue was raised in the Defender's 2020 Annual Report⁸ on the activities as a national preventive mechanism, but has not yet been resolved.

In the women's ward of the Syunik Psychiatric-Neurological Dispensary, there was a shower room separated from the toilet by a partition wall, with one shower. The shower room lacked a shower hanger, which creates additional difficulties for persons with mental health problems when taking a shower. It should be noted that one shower is extremely insufficient for the proper organization of bathing for 24 patients in the ward. Moreover, the door of the shower room was locked, and the handle used to open the shower room door was kept by the duty sanitary worker, which kept patients unnecessarily dependent on the facility staff. According to the information provided, bathing for patients in the men's ward was organized in the bathroom located on the first floor of the facility. There were two shower cubicles in this bathroom, which were separated by a partition, but did not have doors or curtains. The wall plaster in the bathroom had partially fallen off, the heating radiator and pipes were rusty, and there was a need for cleaning work.



Bathroom

During private conversations with the Defender's representatives, patients reported that bathing in the above-mentioned center is usually organized once a week, but additional bathing is also organized as needed.

Regarding the frequency of bathing organization, it should be noted that according to Rule 19.4 of the "European Prison Rules" (hereinafter referred to as European Prison Rules)⁹ adopted by

⁸ See on <https://www.ombuds.am/images/files/de9d93e7fe42e0fb57562fdea702609e.pdf> as of 29.03.2024

⁹ See https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016809ee581 on the website as of 29.03.2024.

Recommendation No. R(2006)2 of the Committee of Ministers of the Council of Europe, revised on July 1, 2020, *adequate facilities should be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene.*

In its reports on Armenia, as well as on several other countries, *the CPT has repeatedly called on the authorities to increase the frequency of bathing for persons held in detention, based on Rule 19.4 of the European Prison Rules.*

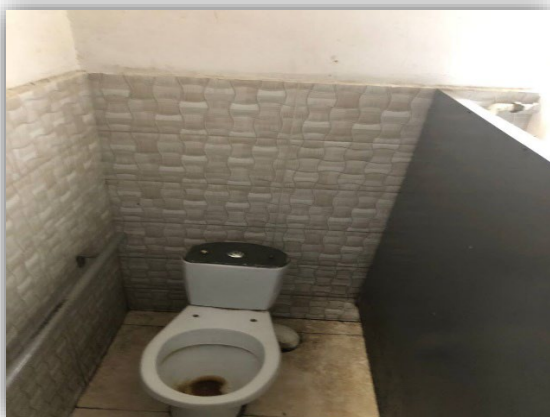
In the temporary isolation ward of the Syunik Psychiatric-Neurological Dispensary, separate toilets and shower rooms were allocated for women and men. The toilets of the ward were located adjacent to the shower room, separated by doors, and it was necessary to pass through the shower room to use the toilet. Under these conditions, if one patient takes a shower, other patients will not be able to use the toilet. One toilet bowl was installed in each of the men's and women's toilets. At the time of the monitoring visit, there was a water leak in one of these toilets.

The toilets in the wards of the Syunik Psychiatric-Neurological Dispensary were not adapted to the needs of persons with mobility difficulties, while two persons with mobility difficulties were kept there. The toilet bowl in the men's ward did not have a seat.

During the visit to the Syunik Psychiatric-Neurological Dispensary, it was also recorded that the common-use soaps installed in the toilets were used by more than one patient, which is concerning in terms of maintaining personal hygiene. Moreover, in some cases, persons with mental health problems simply held their hands under running water after using the toilet and did not use hygiene products at all, which is concerning.

On the first floor of the Armash Health Center, there were two toilets for men, one of which was located in the corridor and the other in one of the patient rooms. For women, there was one toilet in the corridors of the first and second floors of the facility.





Toilet

During the visit, it was recorded that male patients of the Armash Health Center also use three Asian-type toilets located in the yard, which had signs saying "Do not use". According to the information provided by the staff, as a result of a visit by representatives of the "National Center for Disease Control and Prevention" SNCO of the RA Ministry of Health, the use of the above-mentioned toilets was prohibited, they attached signs saying "Do not use" to the toilet doors, but persons with mental health problems continue to use them unhindered.

It should be noted that there was no sink, trash can, or toilet paper in these yard toilets, and artificial lighting was also absent. The sanitary condition of the toilets located in the yard was extremely unsatisfactory, with a stench prevailing. In addition, using these toilets can cause difficulties for persons with mental health problems taking psychotropic medications in terms of mobility and maintaining balance.

When using the yard toilets, persons with mental health problems had to wash in the toilets inside the building or in the laundry bathroom. At the time of the visit, it was recorded that some male patients used the yard toilets and went to their patient rooms or walked in the facility corridor or yard without washing.

The use of these toilets under the described conditions is unacceptable, and they are subject to immediate closure.

It should be noted that the toilets in the men's and women's wards of the Armash Health Center were in poor condition, particularly, the wall plaster had fallen off, the walls and tiles were partially broken and blackened, and there was a need for renovation and cleaning work. It is noteworthy that the toilet bowls in the women's toilets did not have seats, and the toilets were not adapted to the needs of persons with mobility difficulties.

On the first floor of the Armash Health Center, another men's toilet was built in one of the patient rooms, which persons with mental health problems had to pass by the beds of other patients placed in that room causing inconvenience to the latter. In this regard, the patients of that patient room also expressed their dissatisfaction, noting that the frequent entry and exit of other persons with mental health problems into the patient room to use the toilet disturb their peace.

Based on the above, it is necessary to:

- ✓ *Ensure proper organization of washing and storage of clothing and bedding for persons with mental health problems;*
- ✓ *Provide all persons with mental health problems with individual clothing appropriate to their age, gender, and weather conditions;*
- ✓ *Ensure the availability of hot water in the bathrooms of the Armash Health Center;*
- ✓ *Exclude the practice of group bathing for persons with mental health problems, ensuring dignified conditions for them;*
- ✓ *Increase the number of shower rooms in the wards of the Syunik Psychiatric-Neurological Dispensary, as well as equip them with shower hangers;*
- ✓ *Ensure the possibility of bathing for persons with mental health problems so that each person can take a shower or bath in appropriate climatic temperature conditions, and if possible, this should be daily, but at least twice a week (or more frequently if necessary), based on the interest of general hygiene maintenance;*
- ✓ *Carry out renovation and cleaning work in the toilets of the facilities, properly furnish them, adapting them to the needs of persons with mobility difficulties;*
- ✓ *Close the toilets located in the yard of the Armash Health Center and exclude their use;*
- ✓ *Take steps to exclude the practice of using the toilet built in the patient room of the Armash Health Center by patients from other patient rooms.*

3.19. Kitchen and Food Provision

The cafeteria of the Armash Health Center was located in the basement of the building, where there was no ventilation system or windows, and natural lighting was also absent.

At the time of the visit, there were 6 tables and 38 chairs in the cafeteria for people with mental health issues to have their meals. Staff members noted that the meal process for people with mental health issues takes quite a long time (about 1 to 1:30 hours) as they eat in shifts. During the visit, the women's group used the cafeteria first, followed by the men's group. The Ombudsman's representatives also recorded that at lunchtime, the men's group mainly stood waiting for a long time near the entrance of the cafeteria until the women finished eating.

In the temporary isolation ward of the Syunik Psychiatric-Neurological Dispensary, there was no dining room, and patients took their meals in the wards. Food was distributed in the corridor of the ward without trays, and sometimes people with mental health issues had difficulty holding soup, bread, candy, and juice with both hands simultaneously. It should be noted that not all wards were equipped with the necessary conditions for eating, particularly with the necessary number of tables and chairs, which precluded the possibility of all patients in the ward eating simultaneously. Due to the lack of facilities, patients were forced to eat sitting on their beds, holding the food container in their hands.

In other departments of the Syunik Psychiatric-Neurological Dispensary, patients ate in dining rooms. At the time of the visit, there were not enough tables and chairs in the dining rooms, and the possibility of all patients in the departments eating simultaneously was not ensured. For example, in the women's ward, patients had to share one bench between two people, sitting back to back to use adjacent

tables. In the men's ward, due to the lack of sufficient furniture in the dining room, some patients waited standing near the entrance of the dining room for their turn.

It should also be noted that menus were not posted in all departments of psychiatric organizations, and people with mental health issues did not have information about the daily menu.



Meal arrangement

The Ombudsman emphasizes that the lack of proper eating conditions is concerning and may lead to ill-treatment.

On the door of the kitchen entrance of the Syunik Psychiatric-Neurological Dispensary, there was a sign stating "Entry of unauthorized persons is prohibited," but during the monitoring visit, other employees of the institution were able to enter the kitchen without hindrance, without wearing appropriate uniforms or overgarments. The kitchen of the Syunik Psychiatric-Neurological Dispensary needed renovation, particularly the plaster on the walls was peeling off in some areas, and sanitary-hygienic conditions were unsatisfactory.



Kitchen

At the time of the visit, on a shelf in the kitchen of the Syunik Psychiatric-Neurological Dispensary, there was vegetable oil in two plastic containers intended for yoghurt, without labels or markings. The containers were without lids and in unsatisfactory sanitary-hygienic conditions. Cooking with vegetable oil stored in such conditions could be extremely dangerous for the health of those consuming the food. The pasta was also stored in open conditions in a plastic container, and the cereals were in a polyethylene bag, again without labels or markings.

On one of the kitchen shelves, there was soap in unsatisfactory sanitary-hygienic conditions, and there was a worm near the soap.

On the shelf under the sink, there was household garbage in an open container, while on the same shelf, cabbage and beet pickles were stored in a plastic container.

Thus, there were generally unsatisfactory sanitary-hygienic and food storage conditions in the kitchen, which is extremely concerning.

In one of the refrigerators of the food storage at the Armash Health Center, frozen fish were stored without packaging or labelling. Sweets, such as waffles, were also stored in an open state in the warehouse, with hygiene paper and a dirty container placed immediately adjacent to the box.

Such food storage conditions are unacceptable, violate food safety storage rules, and can cause mechanical and bacterial contamination of food.

During the monitoring visit, issues related to food sampling were also examined. For example, at the Armash Health Center, dishes provided the previous day were sampled and stored in refrigerators. In the Syunik Psychiatric-Neurological Dispensary, there were three types of dishes in separate glass containers for food sample storage: lentils and rice, buckwheat, and macaroni soup. On the containers of lentils and rice, as well as macaroni soup, the sampling date was marked as October 24, 2023, with an expiration date of October 26, while on the paper attached to the buckwheat container, the sampling date was marked as October 22, with an expiration date of October 24. It should be emphasized that on the paper placed on the lid of the macaroni soup and buckwheat container, a different sampling date was indicated, namely October 24, 2023, with an expiration date of October 26. Notably, the food items sampled on these days were not included in the menus.

Improper implementation of food sampling cannot serve its purpose, which is problematic.

During the monitoring visits, the menus of psychiatric organizations were also examined, which revealed that the minimum daily food portions prescribed by Annex 1 of the RA Government Decision No. 1724-N of October 21, 2021, "On Establishing Daily Average Portions of Food, Clothing Portions and Their Service Life, Bed and Hygiene Items Portions and Their Service Life for Persons in Psychiatric Organizations and Repealing the RA Government Decision No. 711-N of May 26, 2011" were not being observed. In the studied psychiatric organizations people with mental health issues were not provided with milk, yoghurt, sour cream, cottage cheese, meat, poultry, fish, vegetables, fruit, jam, butter, honey, eggs, sweets, cocoa, dried fruits, and honey every day, whereas according to the mentioned decision, these should be provided daily. Moreover, in the Syunik Psychiatric-Neurological Dispensary, patients were not provided with milk, crackers, dried fruits, fish or seafood at all, and in the Armash Health Center, rosehip was not provided.

Additionally, vegetables were generally provided in smaller portions than the prescribed daily minimum of 500 grams, ranging from 5 to 480 grams. For example, in the Syunik Psychiatric-Neurological Dispensary, on some days only onions were provided as vegetables, in portions of 5-10 grams. Moreover, vegetables were mainly provided in the form of summer soup or borscht, but even in these cases, the total portions of vegetables provided were less than prescribed. Potatoes were also provided in smaller portions (100 grams) than the prescribed 200 grams.

In the aforementioned institution, patients were continuously provided with the same types of fruits, particularly grapes and apples, in some cases plums and peaches, and these were provided in smaller portions than the prescribed daily 250 grams for adults, ranging from 100-150 grams.

During private conversations, many patients expressed a great desire to drink coffee, an opportunity not afforded to them in psychiatric organizations.

It should be emphasized that at the time of the visit, only chicken meat was available in the warehouse of the Syunik Psychiatric-Neurological Dispensary. According to the institution's director, a procurement process for beef was initiated a month before the day of the visit, but no one submitted a

bid or participated, resulting in the psychiatric organization's inability to acquire the necessary meat products.

During private conversations with the Ombudsman's representatives, people with mental health issues and institution staff expressed their dissatisfaction with the reduction of food portions. Staff members particularly noted that the reduced portions of food items are not sufficient for patients, and the reduction of sugar, sweets, and meat quantities is mainly problematic. It should be noted that the RA Government Decision No. 1724-N of October 21, 2021, severely reduced the weight of bread, meat, eggs, butter, vegetable oil, vegetables, and potatoes provided to people with mental health issues. For example, bread from 500 to 450 grams, meat from 125 grams to 30 grams, butter from 30 grams to 15 grams, and potatoes from 300 grams to 200 grams. Thus, a four-fold reduction in meat portions or a two-fold reduction in butter and vegetable oil cannot be justified.

Among the issues related to food provided to people with mental health issues, the diversity of the food is also extremely important. It should be noted that in the Syunik Psychiatric-Neurological Dispensary, patients were continuously provided with only grape juice, lentil and rice soup or pilaf, and among soups, mainly macaroni or wheat porridge and chicken drumstick soup were on the menu, which is concerning.

It should be emphasized that the insufficient quantity of food items on the menus of people with mental health issues and the constant provision of monotonous food is unacceptable and can lead to malnutrition.



Meal arrangement

The lack of opportunity to prescribe and organize dietary food for persons with special dietary needs in psychiatric organizations continues to be problematic. During the monitoring visit, persons suffering from diabetes, hepatitis C, and other chronic diseases were kept in the Armash Health Center,

for whom no separate menu was provided, and they used the food provided in the general order. It is noteworthy that there are also no corresponding legislative regulations regarding this issue.

Considering the above, it is necessary to:

- ✓ *Take steps to eliminate the practice of people with mental health issues queuing at the entrance of psychiatric organizations' cafeterias for meals.*
- ✓ *Provide hospital rooms and dining rooms of psychiatric organizations with the necessary amount of furniture (tables and chairs) for eating.*
- ✓ *Carry out renovation work in the kitchen of the Syunik Psychiatric-Neurological Dispensary, ensuring adequate sanitary-hygienic conditions for food preparation and storage.*
- ✓ *Ensure safe and proper food storage conditions in the warehouse of the Armash Health Center.*
- ✓ *Exclude the provision of food with unknown expiration dates and without expiration date labelling to people with mental health issues.*
- ✓ *Take a proper approach to storing samples of prepared food.*
- ✓ *Provide persons kept in psychiatric organizations with the types and daily minimum portions of food defined by the RA Government Decision No. 1724-N of October 21, 2021.*
- ✓ *Review the daily minimum food portions for people with mental health issues defined by the RA Government Decision No. 1724-N of October 21, 2021.*
- ✓ *Ensure the diversity of food provided to people with mental health issues, excluding frequent provision of the same food items.*
- ✓ *Initiate legislative changes and provide a separate menu for patients with chronic diseases and dietary needs kept in psychiatric organizations, and provide them with appropriate food.*

3.20. Connection With The Outside World

In April 2023, the Secretary General of the RA Ministry of Health issued directives to psychiatric organizations to prohibit visits due to measles and rubella epidemics.

During the monitoring visit, it was recorded that occasional visits with relatives took place at the Armash Health Center, which were conducted outside the building. During private conversations, people with mental health issues reported that these visits lasted 5-10 minutes, depending on weather conditions.

In this context, a metal fence was installed in front of the Syunik Psychiatric-Neurological Dispensary building, one meter away from the first-floor wire mesh windows. According to medical staff, this was done to prevent contact between patients in the temporary isolation ward and their relatives through the window. The additional fencing of a department with barred windows is concerning and may have a negative psychological impact on people with mental health issues.



Telephone

Under such visit restrictions, it is crucial to implement alternative mechanisms for connecting with the outside world in psychiatric organizations.

During monitoring visits, it was noted that video call options were not available when visit restrictions were applied (Armash Health Center, Syunik Psychiatric-Neurological Dispensary).

Another issue is providing telephone access for people with mental health issues in psychiatric organizations.

During the monitoring visit, it was recorded that the payphone at the Armash Health Center could only call landline numbers, which also caused dissatisfaction among people with mental health issues, noting that they often need to call mobile numbers, which is not possible from the payphone. It was also not possible to call three-digit numbers, including the Human Rights Hotline, which is concerning.

The only payphone at the Syunik Psychiatric-Neurological Dispensary was located on the first floor, which was not directly accessible to patients due to locked department doors.

Some patients complained about difficulties making phone calls, particularly noting that they could only call Kapan city numbers from the first-floor payphone, while calls to other cities or mobile numbers were not possible. Moreover, female ward patients had to pass through the temporary isolation ward area to use the first-floor payphone.

At the same time, it should be noted that a significant number of people with mental health issues are not allowed to keep mobile phones in psychiatric organizations. A study of medical records and discussions with medical staff revealed that no restrictions on the right to use telephone communication had been applied to any patient at the Armash Health Center.

To use telephone communication, people with mental health issues apply to the nurse-housekeeper (social worker) or other staff member at the Armash Health Center, who provides their mobile phone for making calls.

In the departments of the Syunik Psychiatric-Neurological Dispensary, there was no accessible means of telephone communication. According to the permission, patients can connect to the secretariat via the department's internal telephone line, through which contact with their relatives will be established.

According to the staff of the Syunik Psychiatric-Neurological Dispensary, communication between people with mental health issues and their relatives is provided as needed through the internal telephone line in the intervention room.

During the monitoring visit, it was recorded that some patients at the Syunik Psychiatric-Neurological Dispensary had mobile phones with them, while others' phones were kept by the nurse. At the same time, it should be noted that according to a significant number of people with mental health issues, are not allowed to keep mobile phones in the psychiatric organization. It is noteworthy that according to information provided by the medical staff at the Syunik Psychiatric-Neurological Dispensary, only one patient had a restriction on the right to use telephone communication. It is noteworthy that during private conversations, people with mental health issues expressed their dissatisfaction with the ban on having personal mobile phones.

From the above, it can be concluded that the right of people with mental health issues to use telephone communication is not properly ensured in psychiatric organizations, and its restriction is not recorded in the person's medical documents.

Thus, psychiatric organizations should take steps to properly ensure patients' ability to make free calls to mobile numbers.

Analyzing these circumstances and legal regulations, it should be noted that the right of people with mental health issues to use telephone communication is generally not maintained in psychiatric organizations, as they are effectively deprived of the opportunity to have mobile phones, it is not possible to call mobile numbers from payphones, and for limited use of telephone communication, patients are directly dependent on the staff of psychiatric organizations, who provide their personal mobile phones.

The ban on having phones is problematic, restricts patients' rights without legal basis, and therefore should be immediately eliminated, especially under conditions of limited visitation opportunities due to epidemics (measles and rubella).

Addressing effective complaint mechanisms in psychiatric organizations, it should be noted that there was a complaint box in the lobby of the Armash Health Center, but staff could not present to the Ombudsman's representatives who and by what procedure records and sends the applications and complaints of people with mental health issues placed in the box to the addressees.

In the departments of the Syunik Psychiatric-Neurological Dispensary, there were boxes for applications, complaints, or suggestions, and according to information provided by staff, there is a procedure for opening them and addressing the applications.

In this regard, it should be noted that the existence of effective complaint mechanisms, regardless of the type of place of deprivation of liberty (penitentiary institution, detention facility, psychiatric organization), is a fundamental guarantee from the perspective of the prohibition of torture, inhuman or degrading treatment.

Thus, it is necessary to:

- ✓ ***Properly ensure the right of people with mental health issues to meet with visitors;***
- ✓ ***Provide proper and dignified conditions and facilities for conducting visits, while maintaining epidemic prevention and sanitary-epidemiological safety rules;***
- ✓ ***Dismantle the additional barrier constructed in front of the first-floor windows of the temporary isolation ward at the Syunik Psychiatric-Neurological Dispensary;***

- ✓ *Ensure the full realization of the right of people with mental health issues to use telephone communication in accordance with the procedure established by law;*
- ✓ *Provide opportunities for independent telephone communication for persons held in psychiatric organizations;*
- ✓ *Ensure the possibility of unhindered calling to mobile numbers and the Human Rights Defender's hotline from the payphones of mental health centers;*
- ✓ *Eliminate the ban on people with mental health issues having mobile phones, restricting the right to use telephone communication only in cases and procedures provided by law;*
- ✓ *Establish a procedure for opening and registering the complaint box in psychiatric organizations, ensuring the possibility for people with mental health issues to write applications and complaints while maintaining confidentiality.*

3.21. Outdoor Walks

During monitoring visits, issues related to organizing walks for persons with mental health problems were recorded.

At the Armash Health Center, many individuals with mental health issues can exercise their right to outdoor walks without hindrance. They claim to go out to the yard when weather conditions are favourable, spending the rest of their time in the ward. The facility had a spacious area designated for walks, but there were no gazebos provided. In various parts of the walking area, large quantities of pruned tree branches were observed, as well as accumulations of unused and unfit furniture and waste (cabinets, refrigerators, sinks, old iron beds and their remains, metal car wrecks, etc.). The presence of unfit furniture in the walking area limits the walking opportunities for people with mental health problems and in some cases can cause injuries.

It should be noted that the issue of improving the walking area of the Armash Health Center and cleaning it of accumulated garbage and unfit furniture was raised in the annual reports¹⁰ on the activities of the Defender as a national preventive mechanism for 2018 and 2020, but the problem has remained unresolved for a long time.

The Syunik Psychiatric-Neurological Dispensary did not have a specially designated and separate walking area, and patients' outdoor walks were organized in the yard area of the building, accompanied by orderlies. Due to the absence of gazebos and shelters, there was no possibility of walking in adverse weather conditions. However, it should be noted that as of the day of the monitoring visit, a procurement process had been initiated to acquire raincoats (clothing) to ensure patients' ability to walk in adverse weather conditions.

¹⁰ See on <https://ombuds.am/images/files/159e14f47f7029294110998e75a5433f.pdf> and <https://www.ombuds.am/images/files/11f00f3e87d3490e4e8c56f207e4bc85.pdf> as of 29.03.2024, pages: 123-126; 147-148.



Walking area

During private conversations with persons with mental health problems held at the Syunik Psychiatric-Neurological Dispensary, the latter mentioned that they go for walks, but mainly do not walk, just stand in the yard.

According to the records in the relevant register of the Syunik Psychiatric-Neurological Dispensary, patients are taken out for walks at the same time almost every day and return at the same time, but as recorded during the visit, persons with mental health problems were taken out for walks at different times and for different durations during the specified period, which was not recorded in the register in any way.

The entries made in the outdoor walk register of the departments of the above-mentioned institution were incomplete, mainly formal in nature, and did not reflect the real picture of the walk organization. For each day in the register, the names and surnames of the patients of the departments were noted, and in some cases, the signatures against them were missing. No relevant entries were made in the last column of the register regarding the restriction of the patient's right to walk or their refusal to do so.

According to point 11 of the appendix to the Order No. 46-N of the Minister of Health of the Republic of Armenia dated May 31, 2021, "On Establishing the Procedure for Rest, Including Outdoor Walks and Exercise, of a Person with Mental Health Problems During Stay in a Psychiatric Organization," *in case a patient uses or refuses a walk, the duty nurse makes a corresponding entry in the register, which is confirmed by the patient's signature.*

It should also be noted that at the Syunik Psychiatric-Neurological Dispensary, walks were provided to patients for different durations (10 to 30 minutes), and the justifications for such differentiated approaches were not recorded anywhere. Moreover, providing such short walks does not contribute to the social-psychological well-being and recovery of persons with mental health problems.

The Defender emphasizes that the improper organization of outdoor walks does not comply with the requirements stipulated by legislation, which is concerning.

According to point 6 of the appendix to the Order No. 46-N of the Minister of Health of the Republic of Armenia dated May 31, 2021, "On Establishing the Procedure for Rest, Including Outdoor Walks and Exercise, of a Person with Mental Health Problems During Stay in a Psychiatric Organization," *differentiated hourly duration of patient's rest, outdoor walks, and exercise is established only in individual cases, conditioned by the health condition of specific patients. Moreover, these exceptional cases are recorded with appropriate justifications in the patient's medical documents.*

The organization of outdoor walks for patients with mobility issues is also concerning. Although there was a wheelchair available in the women's department of the Syunik Psychiatric-Neurological Dispensary at the time of the visit, the possibility for persons with mobility issues to go out for walks was absent due to the department being located on the second floor and the lack of appropriate ramps and elevators. At the time of the visit, there were two patients with mobility difficulties in the facility, one of whom, according to the staff, had difficulty moving even when using a crutch or walker, so they almost always refused outdoor walks. It should be noted that records regarding this were also absent in the register.

Considering the above, it is necessary to:

- ✓ ***Take steps to improve the walking area of the Armash Health Center and clean it of accumulated garbage and unfit furniture;***
- ✓ ***Provide shelters and gazebos in the yards of psychiatric organizations to protect from bad weather conditions;***
- ✓ ***Ensure the realization of the right to daily outdoor walks for persons with mental health problems as stipulated by law, as well as provide appropriate conditions for this;***
- ✓ ***Maintain the walk register of psychiatric organizations according to the procedure established by legislation.***

3.22. Occupation

Issues related to the occupation of persons with mental health problems are of great importance in terms of ensuring their rehabilitation and social integration functions. During monitoring visits, issues related to ensuring occupation for persons with mental health problems were also recorded.

In particular, the lack of separate recreation rooms in the departments of psychiatric organizations remains a concern.

For instance, at the Armash Health Center, a piano, television, tables, and chairs were placed in the entrance hall for the leisure of persons with mental health problems. There were also board games available (chess, checkers, backgammon, playing cards). On the second floor, patients mainly spent the day in the corridor due to the absence of a recreation room. On the first floor of the center, a separate room was designated as a smoking area. According to the information received, in cold weather conditions, a wood stove is placed in this room, around which people with mental health problems gather to warm up and chat. Laundry is also dried in this room, as there is no possibility to dry laundry elsewhere in cold and rainy weather conditions.



Entertainment

At the Syunik Psychiatric-Neurological Dispensary, there was one common room designated for organizing activities - a gym, to which patients did not have free access due to the locked departments. The gym also served as a storage room for unused technical equipment. Fans, televisions, documents,

empty boxes, clothes, and other useful and useless items were stored here. At the same time, due to the absence of a dining room for staff, this room was also used for staff breaks.

Moreover, if we consider that the room was used for the purpose of organizing art therapy and music therapy, and according to the corresponding registers, therapies were organized in groups of 15 patients, it should be noted that the room was not furnished with the necessary number of tables and chairs.

Furthermore, in the departments of the Syunik Psychiatric-Neurological Dispensary, the main activity for patients continues to be watching television. In the temporary isolation department of the aforementioned dispensary, the television was located in the area designated for medical interventions, and it had been out of order for a long time. At the same time, there were not enough chairs available for patients in that area, particularly only two chairs, which were used by medical staff representatives. Consequently, patients in the department were deprived of the opportunity to watch television.

Thus, as a result of monitoring, it was recorded that in the studied psychiatric organizations, the main activity continues to be watching television and playing board games.

It is obvious that the mere presence of television and board games does not solve the issue of providing employment for people with mental health problems. It is necessary to purposefully organize patients' daily routines, taking into account their preferences and capabilities. The implementation of educational programs using game-based methods and conducting exercises that meet the minimum requirements of physical education and safety rules for psychiatric organizations, which are not currently being implemented in the studied psychiatric organizations, is of utmost importance. As a result of monitoring, it was recorded that the issue of creating a library at the Armash Health Center remains unresolved. As during previous visits, during the monitoring visit in 2023, a large number of patients expressed a desire to engage in reading.

There was a library at the Syunik Psychiatric-Neurological Dispensary, but the number of users was small.

As a result of the study and analysis of the provided information, it was recorded that music therapy is carried out at the Syunik Psychiatric-Neurological Dispensary with the involvement of a musician. According to the provided information, the musician conducts music therapy twice a week. It should be noted that according to the patients' claims, they sing and dance during this time. In the institution, apart from data on the fact of conducting music therapy, there was no mechanism for evaluating its results.

The involvement of only a musician in the process of organizing music therapy for people with mental health problems and the organization of "singing and dancing" is not sufficient, and it ensures the occupation of patients. Music therapy should have a toolkit for assessing music therapy participants by a specialist with appropriate training, its effective organization, and evaluating its effectiveness, which was absent at the Syunik Psychiatric-Neurological Dispensary.

Thus, it is necessary to organize alternative therapy for patients in psychiatric organizations, maintaining the procedure, objectives, etc. of implementing alternative therapy.

The Defender once again emphasizes that psychiatric organizations should not be only medical institutions providing pharmacotherapy, but should contribute to the social-psychological well-being and rehabilitation of patients. However, under conditions of vacant positions (clinical psychologist, social worker) and without specialized staff, it is impossible to properly organize such a function.

Therefore, it is necessary to:

- ✓ *Provide separate recreation (leisure) rooms in psychiatric organizations, equipping them with proper furniture, functioning televisions, and board games;*
- ✓ *Increase the types of purposeful activities for people with mental health problems and create additional opportunities, taking into account their mental and physical development characteristics;*
- ✓ *Ensure unlimited access to recreation rooms for all patients at the Syunik Psychiatric-Neurological Dispensary;*
- ✓ *Create a library at the Armash Health Center;*
- ✓ *Provide positions for a psychologist and social worker at the Syunik Psychiatric-Neurological Dispensary, contributing to the social-psychological well-being and rehabilitation of people with mental health problems;*
- ✓ *Develop a toolkit for implementing and evaluating music therapy at the Syunik Psychiatric-Neurological Dispensary with the help of a properly trained specialist (music therapist), maintaining the procedure and objectives of implementing music therapy.*

3.23. Issues Related to Independent Management and Control of Pensions and Benefits

Psychiatric organizations should prioritize ensuring the social security and support rights of persons with mental health issues, considering that these individuals are more vulnerable in terms of protecting their material interests. In this regard, particular attention should be paid to issues concerning the receipt, independent possession, management, and realization of rights to pensions (benefits) by persons with mental health issues, as well as their ability to apply to the appropriate body to continue receiving payments.

For instance, according to information provided during a monitoring visit to the Armash Health Center, the receipt of pensions or benefits for some patients is organized with the assistance of the institution's staff. These individuals with mental health issues receive their pensions and benefits in cash.

Notably, patients are unable to keep their cash-received pensions (benefits) with them, and these are mainly entrusted to the nurse-housekeeper, who also serves as a social worker.

According to the information received, there are also patients at the Armash Health Center whose pensions (benefits) are received and managed electronically by their family members, sometimes not in the patient's best interests.

It should be noted that the institution's management periodically certifies powers of attorney given by persons with mental health issues to their relatives for 1-6 month periods, allowing relatives to receive their pensions. Although the management has acknowledged that relatives generally do not spend the pensions received through power of attorney in the best interests of persons with mental health issues, they continue to certify these documents without hindrance to avoid suspicions of corruption and misconceptions about the organization's interests.

In this regard, it is worth noting that in such cases, when there is a reasonable assumption of domestic violence (including economic or financial), the relevant detention facilities do not take measures to inform the police to ensure the protection, including criminal legal protection, of the persons held there. This is a result of the lack of proper awareness and targeted training of staff in these institutions.

The monitoring visit also revealed problems in cases where patients personally received their pensions. Even when receiving them personally, individuals with mental health issues do not have the opportunity to manage their pensions independently.

For example, according to the information provided, their pensions were found in envelopes kept by the nurse-housekeeper. Each envelope contained separate notes detailing the nurse-housekeeper's purchases, along with receipts.

All these described cases, where persons with mental health issues are deprived of the opportunity to independently manage their property, and income, including pensions, are concerning.

As a result, persons with mental health issues, lacking the ability to manage their own resources, also lose vital social and self-care skills.

Thus, it is necessary to ensure that persons with mental health issues in psychiatric organizations can independently manage their property and income or use them for their own benefit through specific and effective mechanisms.

Considering the above, it is necessary to:

- ✓ ***Develop effective mechanisms for patients to keep and independently manage their money and bank cards;***
- ✓ ***Conduct targeted training for staff to ensure legal protection for persons with mental health issues to independently manage their property and income or use them for their benefit;***
- ✓ ***Take steps to properly ensure the right of persons with mental health issues in psychiatric organizations to personally receive and manage their pensions.***

3.24. Issues Related to the Organization of Psychiatric Care and Services for Forcibly Displaced Persons from Nagorno-Karabakh

The National Preventive Mechanism conducted unannounced monitoring visits to Sevan and Avan Mental Health Centers on October 3 and 5, 2023. The visits examined issues related to the rights and social conditions of forcibly displaced persons from Nagorno-Karabakh receiving treatment in psychiatric organizations, their documentation, sanitary and hygienic conditions for persons with mental health issues, the state of food, medical care and services, adequacy of staff positions, their working conditions, and more.

As of the day of the visit, 11 persons with mental health issues forcibly displaced from Nagorno-Karabakh were receiving psychiatric care and services at the Sevan Mental Health Center, and 22 at the Avan Mental Health Center.

Information was received that 19 persons forcibly displaced from Nagorno-Karabakh were admitted to the National Center for Mental Health Preservation.

It should be emphasized that despite the emergency created by the forced displacement of the Nagorno-Karabakh population as a result of Azerbaijani aggression, psychiatric organizations operating under the Ministry of Health of the Republic of Armenia were able to provide inpatient psychiatric care and services to persons with mental health issues transferred from Nagorno-Karabakh to the Republic of Armenia, which the Defender considers commendable. At the same time, systemic issues were recorded

as a result of monitoring, which, along with proposals for solutions, were sent to the competent authorities.

- The following issues were recorded as a result of monitoring visits:
- Lack of identification documents, documents certifying social status, and medical documents;
- Placing and keeping a person in a psychiatric organization to solve the problem of residence;
- Subjecting a person to voluntary or involuntary treatment in a psychiatric organization;
- Living conditions and accommodations for individuals in psychiatric organizations.

The aforementioned systemic issues are addressed in detail in the relevant sections of this report.

In connection with the recorded issues, it is necessary to:

- ✓ ***Take urgent steps to discharge persons without mental health issues from psychiatric organizations and solve the issue of providing them with accommodations in cooperation with relevant bodies;***
- ✓ ***Develop protocols for organizing the sequence of work and actions in psychiatric organizations during emergencies, including an algorithm for the activities of medical staff and administration, which will include safe evacuation of both patients and service staff, a clear range of responsibilities, safe removal or preservation of medical and personal documents and personal belongings, their accessibility, and other important provisions;***
- ✓ ***Take steps to organize care for persons in need of care in conditions more favorable for mental health preservation - in social protection institutions or social care centers.***

CHAPTER 4. PENITENTIARY INSTITUTIONS OF THE RA MINISTRY OF JUSTICE

One of the fundamental directions of the Human Rights Defender's institution, and primarily the National Preventive Mechanism, is the protection of the rights of persons deprived of liberty in penitentiary institutions of the RA Ministry of Justice.

During 2023, as a result of monitoring and thematic visits to penitentiary institutions by the National Preventive Mechanism, as well as the examination of individual complaints submitted to the Human Rights Defender, issues related to ensuring the right to health of persons deprived of liberty have been identified, which necessitate the implementation of continuous reforms in the field. These issues, in particular, are as follows:

4.1. Ensuring the Right to Health of Persons Deprived of Liberty

The right to health is one of the fundamental rights of persons deprived of liberty held in penitentiary institutions, which is guaranteed by both domestic legislation and internationally recognized documents.

4.1.1. Medical Staff Capacity, Provided Medical Services, and Medical Equipment

It is commendable that from April 28, 2023, the "Penitentiary Medicine Center" state non-commercial organization (hereinafter referred to as SNCO), which organizes the functions of health protection and rehabilitation of detained persons and convicts held in penitentiary institutions and provides medical care and services for that purpose, was transferred under the subordination of the RA Ministry of Health, which is one of the important cornerstones for ensuring the professional independence of medical staff.

At the same time, in order to organize the aforementioned processes, it was necessary to implement more systematic preparatory work and legislative regulatory changes in the relevant departments. The absence of the latter has in some cases led to problematic situations requiring both organizational and legislative solutions, which will be addressed in more detail in the relevant chapters of this report.

The results of monitoring conducted during 2023 continue to show that under the current institutional subordination, the level of trust of persons deprived of liberty towards medical staff is still not sufficient. It is also problematic that patients are still primarily perceived by medical staff as persons who have committed a crime.

In 2023, problems related to medical documentation circulation regarding persons deprived of liberty continued to be recorded.

Thus, there was no electronic document circulation system in the SNCO subdivisions, and the SNCO was not connected to the "Armed" electronic health system. As a result, there were difficulties in the proper organization of medical care and services for persons deprived of liberty, particularly in issues of accessing medical institutions of health authorities, receiving specialized consultations, circulating medical documents, undergoing systematic medical examinations, and other matters.

The inaccessibility of information about the health condition of a person deprived of liberty is also problematic. For example, when a person is admitted to a penitentiary institution, the medical staff does not have access to information about their health condition. The same situation occurs when a person deprived of liberty leaves the penitentiary institution when information about their health condition is not transferred to the relevant medical center to ensure continuous medical supervision of the person.

In 2023, the transfer of information regarding the results of examinations performed in medical institutions of health authorities during stay in penitentiary institutions, as well as other medical interventions, remained concerning, which was time-consuming and required additional involvement of human resources.

The availability of a medical file regarding a person deprived of liberty in cases of entering and leaving a penitentiary institution will contribute to proper medical supervision of the patient.

The involvement of an electronic system can also contribute to increasing the efficiency and accountability of the SNCO and its subdivisions located in penitentiary institutions, to the complete and rapid exchange of information, as well as to strengthening control mechanisms.

The CPT has also addressed this issue. In particular, in its 2020 report on Iceland, the CPT called on the authorities to introduce a system that would facilitate the circulation of medical information between relevant medical services for the benefit of healthcare provided to persons deprived of liberty. The possibility of collecting information in a single electronic system should be considered, ensuring quick and easy access to medical information for medical staff in the penitentiary institution, as well as ensuring the continuity and adequacy of healthcare provided to persons deprived of liberty both when entering penitentiary institutions and when released¹¹.

According to information provided by the RA Ministry of Health, in 2024 the SNCO joined the "Armed" electronic health system, which is welcome.

The high level of processes for ensuring and organizing medical care and services for persons deprived of liberty in penitentiary institutions is directly related to the medical positions provided in the SNCO subdivisions, their staffing, and the professional capabilities of the staff.

The staffing of medical positions in the SNCO's subdivisions continues to remain a concern. During the monitoring visits to penitentiary institutions in 2023, vacant medical positions were recorded. For instance, at the time of the monitoring visit to the SNCO subdivision located in the "Sevan" penitentiary institution, 0.5 of a doctor's position was vacant, as well as the position of the subdivision head. A vacant doctor's position was also present in the SNCO subdivision located in the "Vardashen" penitentiary institution.

According to information provided by the Ministry of Health, some positions (in the on-duty medical group, narcological, dental, psychiatric and tuberculosis departments) of the SNCO's "Hospital for the Convicted" penitentiary institution continue to remain vacant, as well as the doctors' positions in the "Vanadzor", "Goris" and "Nubarashen" subdivisions are vacant.

Thus, the absence of vacant and necessary positions is an additional obstacle to the proper organization of medical services and requires an urgent solution.

From the perspective of effective organization of health protection for persons deprived of liberty, the quantitative distribution of medical positions provided in various subdivisions of the SNCO remains

¹¹ See on <https://rm.coe.int/16809a3ee3> as of 29.03.2024; paragraph 38.

concerning. A detailed analysis on this is presented in the 2021 Annual Report on the Activities of the Human Rights Defender as the National Preventive Mechanism¹².

Thus, in order to properly organize medical care and services for persons deprived of liberty, the medical staff positions to be provided should be established in accordance with the capacity of the penitentiary institution, the prevalence of diseases, and the requirements of necessary medical care and services.

Regarding the scope of services provided in SNCO subdivisions, it should be emphasized that all subdivisions are licensed only for outpatient medical services, except for the "Hospital for the Convicted" penitentiary institution. However, during the monitoring visit to the "Vardashen" penitentiary institution, it was recorded that a department for persons deprived of liberty in need of care and medical assistance was separated in the mentioned subdivision. 4 patient rooms were separated in the mentioned department, with the possibility of deploying 13 beds. At the time of the visit, 7 persons deprived of liberty were held there, who mainly needed care.

According to information provided by the Ministry of Health, psychiatrist positions are filled in all SNCO subdivisions, except for the "Goris" medical subdivision. It is noteworthy that during the monitoring visit to the "Artik" penitentiary institution, it was found that the narcologist specialist is absent in the corresponding subdivision of the SNCO. According to information received during the visit, persons deprived of liberty independently decide on issues of changing the dosage of methadone treatment, which, in the absence of a relevant specialist, the Head of the Subdivision independently regulates without having the appropriate specialization.

In this regard, Rule 25 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) of December 17, 2015, provides that *healthcare services should be provided by an interdisciplinary team with sufficient qualifications, including experience in psychology and psychiatry, under conditions of full medical independence*.

All SNCO subdivisions provide 24-hour medical care to persons deprived of liberty through a nurse or medical assistant on 24-hour duty. Doctors are on duty only in the "Hospital for the Convicted" penitentiary institution.

Addressing the medical equipment of penitentiary institutions, it should be noted that as a result of direct observation, the SNCO subdivisions located in the institutions were equipped with some medical devices and tools. However, many of them were not operated due to the lack of appropriate materials and supplies or necessary working conditions.

All SNCO subdivisions, except for the "Hospital for the Convicted" penitentiary institution, are equipped with new dental chairs. According to the received information, the supply of dental materials and supplies (for example, disinfectants, filling materials, etc.) has significantly improved in recent years, however, the dental service of the "Hospital for the Convicted" penitentiary institution is not staffed with necessary specialists and does not have sufficient technical equipment, which is why they are forced to organize dental care for persons deprived of liberty in medical institutions of health authorities.

In the monitored penitentiary institutions, as well as in the "Hospital for the Convicted" penitentiary institution, a defibrillator was absent, which is extremely necessary for organizing emergency medical care.

¹² See the report on <https://ombuds.am/images/files/3167e2e8e2e90d939c4cffd7c644593f.pdf> as of 29.03.2024; pages: 65-70:

In its 2020 report on Armenia, the CPT called on the authorities to provide all SNCO subdivisions with the necessary equipment for providing emergency medical care, such as defibrillators and oxygenators¹³.

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

- ✓ ***Ensure a sufficient number of medical staff positions with appropriate qualifications in SNCO subdivisions;***
- ✓ ***Take steps to fill vacant medical positions;***
- ✓ ***Organize continuous and periodic measures aimed at improving the professional qualities of medical staff;***
- ✓ ***Take measures to acquire necessary supplies to ensure the operation of medical devices;***
- ✓ ***Re-equip SNCO subdivisions with medical equipment and supplies provided for by the RA Government Decision No. 1936-N of December 5, 2002, as well as with a defibrillator and oxygenator.***

4.1.2. Organization of Treatment for Infectious Diseases

In 2023, the spread of infectious diseases and efforts aimed at their prevention have remained particularly concerning. In this context, early detection and treatment of infectious diseases is crucial.

During monitoring visits, it was discovered that upon admission to penitentiary institutions, persons deprived of liberty undergo rapid testing for HIV, Hepatitis C, syphilis, and, as necessary, for rapid detection of coronavirus infection, which is commendable. However, the issue of organizing follow-up examinations and continuing treatment after receiving treatment within the framework of the "Program for Diagnosis and Treatment of Hepatitis C among socially vulnerable and special (specific) groups of the population entitled to free and preferential medical care and services guaranteed by the state" has been problematic.

This is concerning from the perspective of disease control and may pose risks of ineffective treatment organization.

On February 9, 2023, information was received at the Office of the Human Rights Defender of the Republic of Armenia that a detained person held in the "Hospital for the Convicted" penitentiary institution was suffering from drug-resistant bacillary tuberculosis and, due to disagreement with the charges brought against him, was refusing medication treatment and needed psychological support. The person deprived of liberty refused to take anti-tuberculosis medications on October 5, 2022, and after resuming treatment on November 21, 2022, refused it again on January 28, 2023.

During a private conversation, the person deprived of liberty informed that his criminal case is in the trial phase, and due to being in the bacteriological phase of the disease, he is not being transferred to court sessions, resulting in postponements of court sessions on the grounds of the defendant's non-appearance.

Only as a result of intervention by representatives of the Human Rights Defender, on April 12, 2023, did the head of the "Hospital for the Convicted" penitentiary institution of the SNCO initiate legal proceedings for involuntary treatment. However, the application for involuntary treatment of the person

¹³ See on <https://rm.coe.int/1680a29ba1> as of 29.03.2024, para. 46:

deprived of liberty was submitted to a court with different territorial jurisdiction, namely the Court of First Instance of General Jurisdiction of Yerevan City, resulting in the court returning the application.

Subsequently, only on June 29, 2023, did the head of the "Hospital for the Convicted" penitentiary institution of the SNCO submit an application for involuntary treatment to the Court of First Instance of General Jurisdiction of the Armavir Region.

According to the information received, the application was assigned to a judge with criminal specialization of the Court of First Instance of General Jurisdiction of Armavir Region (who had also been assigned the person's criminal case) when the application was subject to examination under the procedure established by the Civil Procedure Code.

Moreover, given the fact that court sessions within the framework of the criminal case were continuously postponed, the Court of First Instance of General Jurisdiction of Armavir Region did not consider the aforementioned application for an extended period.

In response to the Human Rights Defender's letter, the Judicial Department reported that the aforementioned application was submitted to the Court of First Instance of General Jurisdiction of Armavir Region on October 16, 2023, and the final judicial act was issued on October 20 - about 4 months after applying to the court.

It is noteworthy that although the court satisfied the request to subject the person to involuntary medical treatment, nevertheless, in the absence of appropriate mechanisms, the latter continued to not receive treatment.

Meanwhile, Article 271 of the Civil Procedure Code of the Republic of Armenia stipulates that *in cases where a citizen is infected with a disease included in the list of diseases posing a danger to the public approved by the Government, or there is evidence of possible infection of that citizen with such a disease, the persons provided for in Article 272 of this Code or a state authority have the right to apply to court with a demand to subject that citizen to involuntary medical examination and/or treatment. Article 272 of the same Code stipulates that the medical organization where the citizen is being treated, or the body authorized by the Government in the field of healthcare, has the right to submit an application to the court regarding subjecting a citizen to involuntary medical examination and/or treatment.*

In fact, the involuntary treatment procedure for the person was initiated only two and a half months after the final refusal of treatment (previously, the person had periodically refused treatment, but it had resumed months later).

Moreover, according to Article 274 of the Civil Procedure Code of the Republic of Armenia, *the court examines the application for subjecting a citizen to involuntary medical examination and/or treatment as soon as possible after receiving it, but no later than within five days from the date of submission of the application. In case of a disease posing a danger to the public, the spread of which requires immediate measures to prevent, at the motioner's request, the court examines the case and renders a verdict immediately, but no later than within 24 hours from the moment of submission of the application,* whereas the case remained without examination in court for about 4 months.

In fact, the person, suffering from a particularly dangerous disease for the public, namely drug-resistant bacillary tuberculosis, was subjected to treatment only nine months after refusing treatment. The organization of hospital medical care and services for infectious diseases in the "Hospital for the Convicted" subdivision of the SNCO continues to be concerning (for more details on the issue, see the

Annual Report on the activities of the Human Rights Defender as the National Preventive Mechanism for 2021).

Therefore, taking into account the above, it is necessary to properly implement the process of treatment and necessary examinations for persons suffering from infectious diseases in penitentiary institutions in accordance with relevant standards, exercising strict control over it.

4.1.3. Medication Supply and Expired Medications

During monitoring visits to penitentiary institutions in 2023, issues related to insufficient quantities and limited varieties of medications in medical service units continued to be recorded.

Representatives of the National Preventive Mechanism documented problems with providing prescribed medications to persons deprived of liberty during their visits.

For instance, during monitoring visits to penitentiary institutions, it was recorded that prescribed medications for persons deprived of liberty had been unavailable for extended periods. Although the medical staff of the State Non-Commercial Organization's (SNCO) subdivisions assured that the medication, in terms of necessary quantities and varieties, was sufficient, interviews with persons deprived of liberty and examinations of medical records revealed that several prescribed medications and medical supplies were not available in the subdivisions. Specifically, medications such as "Glucovance," "Coldrex," "Catafast," "Dexalgin," "Vitamin C," "Ibuprofen," magnesium and calcium preparations (Vardashen subdivision), "Lantus," "Analgin" tablets, "Amoxicillin," "Concor," "Nemesil," "Theraflu," "Cardiomagnyl" (Artik subdivision), "Atrapid," glucometer needles, strips (Sevan subdivision), and other medications and medical supplies were unavailable.

In 2023, numerous individual complaints were received from penitentiary institutions regarding the failure to provide prescribed medications to persons deprived of liberty.

For example, as a result of examining an individual complaint received in July 2023, it was revealed that a convict had been prescribed five consecutive injections of "Flosteron" medication at 12 to 15-day intervals nine months prior due to an illness. However, the convict received only one injection of the medication, after which the treatment was interrupted due to the SNCO running out of the said medication.

The convict's medication treatment was organized by the SNCO subdivision, and the prescribed "Flosteron" injections were administered only from September 4, 2023, after the Defender's intervention.

Thus, the prescribed treatment for the person deprived of liberty was not properly organized due to the lack of medication, which is problematic.

In another case, a person deprived of liberty underwent surgical intervention in a civilian medical facility due to a myocardial infarction, after which they were transferred to the "Hospital for the Convicted" penitentiary institution and prescribed medication treatment. In a complaint addressed to the Defender, the individual stated that they were discharged from the "Hospital for the Convicted" penitentiary institution and transferred to the main place of punishment, where the medical staff of the SNCO subdivision had not provided the continuously prescribed medications for four days, resulting in the interruption of medication treatment.

In fact, when a person deprived of liberty is admitted to a penitentiary institution on the last working day of the week or during non-working days and hours, they are deprived of the opportunity to receive prescribed medications.

The prescribed continuous-use medications for the person deprived of liberty were provided only as a result of the intervention of the Defender's representatives.

Failure to provide necessary medications to persons deprived of liberty may lead to the state's failure to fulfil its obligation to ensure proper medical care and medication treatment for persons under its care.

The absence of necessary medications and medical supplies is also due to procedural difficulties in public procurement.

For instance, organizing the process of acquiring medications as needed is time-consuming. For example, if a person deprived of liberty is prescribed a medication that is not available in the subdivision's pharmacy, the subdivision applies to the SNCO with a request to acquire it. Moreover, there are also difficulties in obtaining medications from the centralized relevant pharmacy of the RA Ministry of Health, which is an additional link in this process, and additional time is required to acquire the necessary medication.

According to information received from the RA Ministry of Health, in the absence of prescribed medications for persons deprived of liberty in the SNCO pharmacy, a procurement process begins in accordance with the requirements of the RA Law "On Procurement," which creates several obstacles in the process of providing prescribed medications to persons deprived of liberty. In particular, the procurement process takes up to one month, and sometimes no price offers are submitted for several medications during the procurement, resulting in the inability to acquire the given medication.

Thus, when the necessary medication runs out or a need arises for medications that could not have been planned, the SNCO is unable to acquire them in a timely manner and organize the prescribed treatment for persons deprived of liberty. Often, the prescribed medication is replaced with another medication with the same chemical composition, but these are also not always available in the SNCO pharmacy.

The Defender emphasizes that providing the necessary medication to a person deprived of liberty under such conditions may be untimely, and cause negative consequences for their health, which in turn will lead to the state's improper fulfillment of its obligations regarding the right to health preservation of persons deprived of liberty.

During monitoring visits, it was revealed that persons deprived of liberty mainly acquire prescribed medications at their own expense, and/or are transferred by relatives. The large variety of medications transferred by relatives to persons deprived of liberty also testifies to the lack of variety and quantity of medications in SNCO subdivisions. During monitoring visits, it was revealed that the list of medications transferred by relatives to persons deprived of liberty included those that, or their substitutes, were available in the studied subdivisions, but in limited quantities.

The issue of insufficient quantities and limited varieties of medications in penitentiary institutions has also been raised multiple times in individual complaints addressed to the Human Rights Defender, which stated that penitentiary institutions are not provided with medications prescribed to persons deprived of liberty.

Failure to provide persons deprived of liberty with necessary varieties and quantities of

medications may lead to the state's failure to fulfil its obligation to ensure proper medical care and medication treatment for persons under its care. The main directions and principles of the state policy on medication provision, enshrined in law, should also be applicable in the process of medical care and service for persons deprived of liberty.

It is evident that this issue should receive a systemic solution, and in case of medical indication, the necessary medication treatment should be provided to the person deprived of liberty without delays.

According to information provided by the RA Ministry of Justice, medications acquired by persons deprived of liberty in penitentiary institutions at their own expense or that of their close relatives are accepted by representatives of the relevant SNCO subdivision after examining the medication, determining its permissibility, and sometimes after being checked through an X-ray machine.

Nevertheless, in 2023, cases were recorded when a person with a prescription for continuous medication was transferred to a penitentiary institution, but the medication brought by relatives was not accepted due to organizational issues related to non-working days. This is concerning due to the fact that the prescribed medication for the person deprived of liberty was absent in the penitentiary institution.

For instance, a case was recorded when a person deprived of liberty was transferred to a penitentiary institution on Friday evening, during non-working hours, where their prescribed continuous-use medication was not provided due to its absence.

In such a situation, the relatives of the person deprived of liberty were forced to bring medication acquired at their own expense to the penitentiary institution, but it was not accepted by the SNCO subdivision due to it being a non-working day and citing organizational issues. In particular, the complainant was informed that the medication could only be accepted by the responsible person of the SNCO subdivision, who was not present at the penitentiary institution during non-working hours.

As a result, due to organizational issues and the lack of alternative effective mechanisms for medication acceptance, the person deprived of liberty did not receive their continuous-use medication for about three days, which led to the deterioration of their health condition.

This is concerning both in terms of the state's failure to provide the person deprived of liberty with prescribed medication and the failure to provide medications acquired at their own expense due to technical issues.

During monitoring visits, instances of providing medications to persons deprived of liberty without medical prescription were recorded.

For example, an injection of "Acupan" was prescribed for a person deprived of liberty, however, according to the corresponding entry in the "Register of Outpatient Medical Care and Services Provided to Detainees and Convicts", the individual was administered an injection of "Sibazon" solution.

Such practice is problematic, considering that the medication recorded in the register is a psychotropic drug included in the list of narcotic drugs, psychotropic (psychoactive) substances and their precursors subject to control in the Republic of Armenia, approved by the Government of the Republic of Armenia Decision No. 1129-N¹⁴ dated August 21, 2003. This approach does not comply with legislative requirements and raises reasonable concerns.

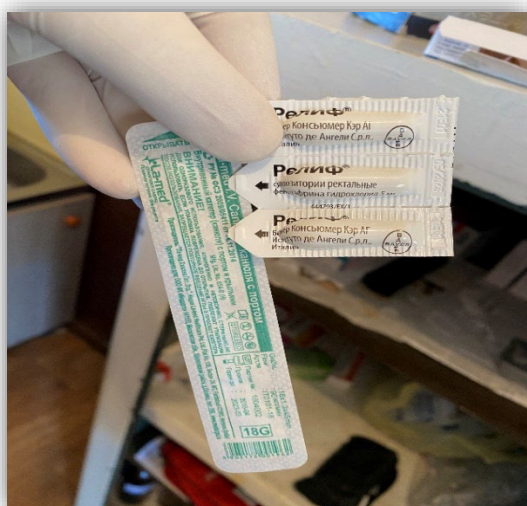
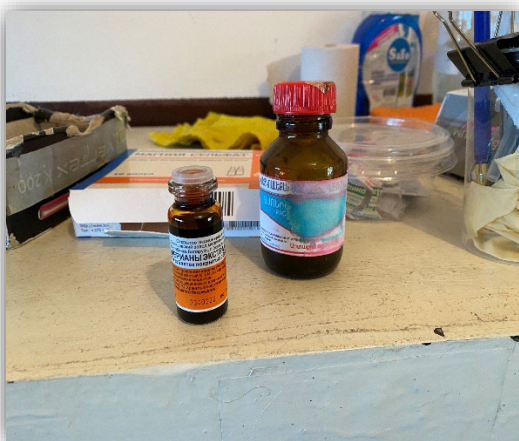
¹⁴ Decision of the Government of the Republic of Armenia No. 1129-N of August 21, 2003 "On Approving the Composition (List) of Controlled Narcotic Drugs, Psychotropic (Psychoactive) Substances and Their Precursors in the Republic of Armenia"

The presence of expired medications and medical supplies in the subdivisions of the SNCO located in penitentiary institutions, as well as their improper storage conditions, continue to be problematic.

For instance, during monitoring visits, several expired medications and medical supplies were discovered in the subdivisions, including 1 box of "Magnesium Sulfate" medication, 1 tube of "Mecol" ointment, 3 boxes of "Piracetam" ampoules (expired one month prior) ("Vardashen" subdivision), "Releaf" suppositories (expired five months prior), valerian tincture, ammonia solution, perhydrol (expired 10 months prior), hydrogen peroxide (expired 3 months prior), intravenous catheters, blood sampling needles and vials (expired 2 years and 3 months prior), expired intravenous injection fluid, nitroglycerin tablets, as well as several boxes of expired "SILK 7 Polypropylene" sutures (expired 6 months prior) and bottles with worn-out Betadine labels ("Artik" subdivision).

First and foremost, it appears that expired medications are stored together with general medications. Moreover, there are instances where they are not separated into individual packages, therefore their distribution to persons deprived of liberty cannot be ruled out.

On the other hand, it is problematic that the discovered expired medications had not been destroyed as of the day of the monitoring visit and continued to be stored alongside other medications.



Medications

During the visits, numerous medications with unknown expiration dates were also recorded in the "Vardashen" and "Artik" subdivisions of the SNCO. In the fireproof cabinet of the "Artik" subdivision, there was a plastic container filled with various pills, on which it was impossible to read the name of the medication and expiration dates. Most of the pills were stored outside of blister packs or original packaging, mixed without protective film or box, along with other blister packs and pills. The container also contained medications in cut blister packs, where the sections indicating the expiration date and name were also missing. This is problematic not only from the perspective of controlling medication expiration dates but also in terms of differentiating between medications.

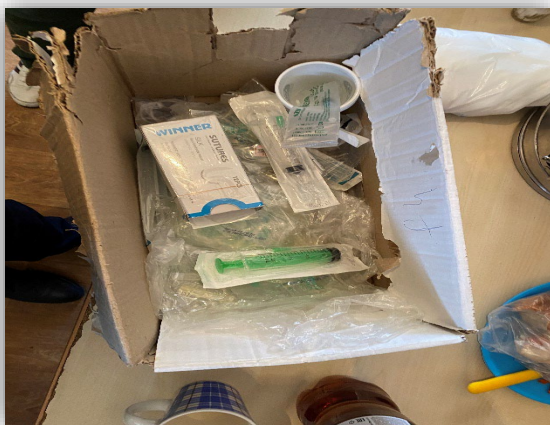
In the "Vardashen" subdivision, the expiration date sections of several medication blister packs had been cut off, and the control of medication expiration dates was carried out by recording the dates on a computer, which was not sufficiently effective.

Thus, it is inadmissible for medical personnel to exercise inadequate control over medication storage, as well as the use of expired medications.

During monitoring visits to penitentiary institutions in 2023, issues related to the collection, disinfection, and disposal of medical waste were recorded.

In the "Artik" penitentiary institution, daily used sharp waste was collected and stored in the duty officer's workspace in a plastic container, which was left open. Medical waste in the penitentiary institution (bandages, other used medical supplies, including sharps) was collected and stored in a separate room of the pharmacy warehouse, where a large amount of medical waste accumulated over months was kept along with other usable and unusable supplies and medications (methadone and others). According to the medical staff's explanations, the waste had been accumulated 2-3 months prior to the visit, which was reported to the SNCO in writing to organize the transfer of waste, but it had not been organized.

In the "Sevan" penitentiary institution, medical waste, including sharps (stored in a plastic container, which was left open), was collected in the intervention room, and in case of larger quantities, it was stored in a separate storage room in the administrative building of the penitentiary institution. In the "Vardashen" penitentiary institution, medical waste was collected and stored in a separate room of the medical building, along with other unused medical supplies.





Medications

Storing medical waste in improper conditions, without maintaining sanitary and hygienic norms, creates a favorable environment for the development and spread of infections, which is extremely concerning.

Taking into account the above, it is necessary to:

- ✓ ***Improve the process of providing medications to persons deprived of liberty as needed, in accordance with relevant standards;***
- ✓ ***Provide persons deprived of liberty with necessary medications and medical supplies in sufficient quantities and varieties through proper mechanisms;***
- ✓ ***Develop an alternative flexible mechanism for drug procurement that will ensure their provision to persons deprived of liberty as needed without loss of time;***
- ✓ ***Develop effective mechanisms for controlling medication expiration dates in penitentiary institutions;***
- ✓ ***Establish strict control over the circulation of medications with unknown expiration dates, as well as expired medications, including their use;***
- ✓ ***Maintain proper medication storage conditions;***
- ✓ ***Organize the collection and storage of medical waste in accordance with the relevant provisions of Order No. 03-N of the Minister of Health of the Republic of Armenia dated March 4, 2008.***

4.1.4. Organization of Medical Examinations and Transfer of Persons Deprived of Liberty to the "Prisoners' Hospital" Penitentiary Institution and Healthcare Facilities

Based on monitoring visits to penitentiary institutions in 2023 and the examination of individual complaints addressed to the Human Rights Defender, it has been determined that issues continue to be recorded regarding the organization of medical care for persons deprived of liberty.

Access to medical services for persons deprived of liberty remains limited and is organized with prolonged delays. Problems have also been recorded in relation to the organization of specialized medical consultations.

Numerous cases were recorded in 2023 where medical examinations prescribed for persons deprived of liberty were organized months later, with the majority of these only occurring after intervention by representatives of the Defender.

For example, a person deprived of liberty held in the "Nubarashen" penitentiary institution was prescribed a urological examination in May 2023 due to existing medical conditions. However, this examination was only organized in February 2024, nine months later, following the Human Rights Defender raising the issue.

In another complaint, a detainee reported that he was prescribed a surgical consultation in December 2022 for a diagnosis of "Bleeding Hemorrhoids." This consultation was organized eight months after the prescription. Moreover, as a result of the surgical examination, a colonoscopy was prescribed to determine the final diagnosis, which, according to the information received, had not yet been organized as of February 2024. Notably, the reasons given for not organizing the examination were difficulties in cleansing the intestinal contents through enema and the absence of the necessary medication in the list of essential medicines defined by the Minister of Health's Order No. 56-N dated July 28, 2021, "On Defining the List of Essential Medicines and Repealing the Order No. 07-N of the Minister of Health of the Republic of Armenia dated March 17, 2018."

In another case, the examination of a complaint revealed that a CT scan of the thoracic and lumbar spine was prescribed in January 2023 to determine a convict's diagnosis. The State Non-Commercial Organization's (SNCO) subdivision reached an agreement with a civilian medical institution for this purpose. However, the prescribed examination was not carried out due to the suspension of state-guaranteed free medical care and service referrals in the medical institution until May 1, 2023. As a result, the SNCO's subdivision arranged for the prescribed examination with another medical institution only four months after the initial prescription.

During monitoring visits and through analysis of individual complaints addressed to the Human Rights Defender, cases have been recorded regarding difficulties in keeping persons deprived of liberty in separate hospital conditions from other patients in medical institutions. Due to the lack of appropriate holding conditions, patient admission to medical facilities has been postponed, or the patient has been forced to pay for a separate hospital room. In some cases, persons deprived of liberty have even been discharged from medical institutions without completing treatment because it was not possible to organize the principle of separate detention in the general ward, and the individual did not have the means to pay for a separate room.

To ensure separate accommodation for a person deprived of liberty in a medical institution, they are offered a paid hospital room even when the medical intervention is organized within the framework of state-guaranteed free and preferential medical care and services.

Persons deprived of liberty are forced to pay for separate hospital rooms to receive inpatient treatment in healthcare facilities, as the penitentiary service cannot ensure their safety in general wards provided free of charge.

Regarding the above issue, it should be emphasized that according to Article 20 of the Law on Medical Care and Services of the Population, *persons deprived of liberty, detained and arrested, as well as those serving sentences in places of detention, have the right to receive medical care and services in cases and procedures established by law.*

According to Rule 40.3 of the European Prison Rules, *prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation. Rule 46.1 states that sick prisoners who require specialist treatment shall be transferred to specialized institutions or civil hospitals when such treatment is not available in prison.*

According to Rule 24(1) of the Nelson Mandela Rules, the provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of healthcare that are available in the community and should have access to necessary healthcare services free of charge without discrimination on the grounds of their legal status. Rule 24(2) states that healthcare services should be organized in a close relationship with the general public health administration and in a way that ensures continuity of treatment and care, including for HIV, tuberculosis and other infectious diseases, as well as for drug dependence¹⁵.

The European Court of Human Rights, in its judgments concerning Armenia, addressing the State's positive obligation to provide adequate medical care to persons deprived of liberty, has stated *that Article 3 of the European Convention on Human Rights and Fundamental Freedoms (hereinafter referred to as the European Convention) imposes an obligation on the State to protect the physical integrity of persons deprived of liberty, including through the provision of necessary medical assistance*¹⁶.

According to the European Court's 2015 thematic report, *the fulfillment of such an obligation by the State is particularly important in that persons deprived of liberty, due to their status, are dependent on the authorities. Any action or inaction by the latter is likely to have a significant impact on the physical well-being of persons deprived of liberty*¹⁷.

The CPT has also addressed the importance of ensuring the right to necessary medical care for persons deprived of liberty, according to jurisprudence, *persons deprived of liberty should have access to the medical services of a well-equipped civilian hospital or prison hospital. In addition, the medical service should have the ability to organize both medical care and treatment for persons deprived of liberty, as well as to provide special diets, under conditions similar to those provided in civilian medical institutions*¹⁸.

Domestic and international standards aimed at ensuring the right to health of persons deprived of liberty provide for the State's obligation to take necessary measures to provide proper medical care and services in places of detention, and in case of impossibility in the place of detention, to organize it in appropriate healthcare facilities.

An important issue from the perspective of ensuring the right to health of persons deprived of liberty is also receiving examinations and treatment from a preferred specialist doctor at their own expense.

Complaints addressed to the Human Rights Defender and private conversations with persons deprived of liberty during visits indicate that there are cases when applications to the competent authorities for the purpose of using the services of their preferred doctor at their own expense have been

¹⁵ See on https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf as of 29.03.2024.

¹⁶ See Ashot Harutyunyan v. Armenia, judgment of 15 June 2010, application no. 34334/04, para. 103; Davtyan v. Armenia, judgment of 31 March 2015, application no. 29736/06, para. 80.

¹⁷ See on https://www.echr.coe.int/Documents/Research_report_health.pdf as of 29.03.2024.

¹⁸ See the 3rd General Report on the CPT's activities covering the period 1 January to 31 December 1992, <https://rm.coe.int/1680696a40> as of 29.03.2024, paras. 36, 38.

rejected, or the transfer of persons deprived of liberty to healthcare facilities for necessary examinations and consultations has been organized with delays, citing the lack of sufficient staff to ensure their safety.

The legal relationships related to the use of professional services of a doctor from a civilian medical institution at one's own expense and of one's choice are regulated by Government Decision No. 825-N of May 26, 2006. According to paragraph 101 of the Annex to this Decision, *each detained person and convict has the right, in accordance with the established requirements, to use the professional services of a doctor from a civilian medical institution at their own expense and of their choice, regardless of the availability of similar medical care and services provided in the SNCO, including in the territories of penitentiary institutions.*

Thus, the competent agencies, including the subdivisions of the SNCO, should ensure the right of persons deprived of liberty to use the services of specialist doctors of their choice and at their own expense, in accordance with proper methodology and relevant standards.

It should be noted that during 2023, the Human Rights Defender received individual complaints related to the transfer of persons deprived of liberty to the "Hospital for the Convicted" penitentiary institution and medical facilities of health authorities based on medical indications.

In several cases, despite the presence of appropriate medical indications, the inpatient treatment of persons deprived of liberty was organized after significant delays.

In practice, there have been instances where persons deprived of liberty were prescribed inpatient medical examinations or treatment, including surgical procedures, but these were not organized for extended periods.

For example, in February 2023, a person deprived of liberty filed a complaint with the Defender, stating that they had health issues and could not be held in cell conditions. According to the complainant, their left lower limb was swollen and numb, causing difficulties in movement and using the toilet. The individual claimed to require inpatient treatment, but the subdivision of the SNCO (State Non-Commercial Organization) had not taken steps to organize proper medical care at the "Hospital for the Convicted" penitentiary institution.

In response to this, the Defender addressed a letter to the Ministry of Justice of the Republic of Armenia, after which the person deprived of liberty was finally transferred to the "Hospital for the Convicted" penitentiary institution.

In another case, a convict complained to the Defender that following an ophthalmologist consultation in February 2023, they were prescribed vision correction at a specialized ophthalmological clinic.

In response to the Human Rights Defender's inquiry about the organization of the prescribed correction, the Ministry of Health of the Republic of Armenia reported that the convict was released from the penitentiary institution in February 2024 after fully serving their sentence. As a result, the vision correction prescribed to the convict had not been organized for about a year after the initial recommendation.

Numerous complaints have been received not only regarding transfers to medical facilities of health authorities but also about refusals to admit patients to medical organizations for various reasons and the subsequent failure to properly organize medical care processes there.

For instance, in May 2023, a complaint to the Defender revealed that a person deprived of liberty had suffered multiple fractures due to falling from a building. According to the complainant, medical

facilities of health authorities had repeatedly refused to provide medical care to the person deprived of liberty, making it impossible to offer proper medical assistance and service. It was also noted that upon the SNCO's request, the individual was transferred to the "Armenia" Medical Center, but the medical center refused to admit them for unknown reasons.

In another case, a detained person diagnosed with "Anorexia, cachexia grade II-III" was prescribed inpatient treatment in a psychosomatic department. However, the SNCO subdivision encountered difficulties in transferring them to medical facilities of health authorities, as these facilities refused to admit the person deprived of liberty for various reasons. Reasons for not admitting the person deprived of liberty for inpatient care included intolerance of the presence of uniformed correctional officers in the department and difficulties in accommodating a person deprived of liberty with other patients in a general ward.

Such practices are unacceptable, as failure to organize timely treatment of illnesses can have irreversible consequences.

Thus, it is problematic that inpatient medical examinations or treatments for persons deprived of liberty in penitentiary institutions were not organized when indicated.

This issue has been repeatedly discussed with representatives of the SNCO medical staff, who have stated that the improper, particularly delayed, implementation of inpatient treatment or examinations for persons deprived of liberty is due to difficulties in organizing their transfer from penitentiary institutions to medical facilities of health authorities. Specifically, the main reason for this problem is the insufficient number of vehicles allocated to the penitentiary institution, as well as the inadequate number of escorting correctional officers.

In response to this, the Ministry of Justice of the Republic of Armenia has stated that no cases of failure to transfer persons deprived of liberty to medical facilities due to lack or scarcity of resources have been recorded, as officers from intermediate shifts and the Central Body of the Penitentiary Service's security provision department or special purpose department were engaged when necessary.

It is evident that proper organization of medical care for persons deprived of liberty cannot be implemented without appropriate interdepartmental cooperation procedures, including written ones, regulating these processes.

The insufficient level of dialogue and cooperation between penitentiary institution administrations and the SNCO in organizing inpatient treatment and examinations for persons deprived of liberty creates difficulties, which leads to delays or complete failure to organize prescribed medical interventions for persons deprived of liberty, which is unacceptable.

The Defender emphasizes that the continuously recurring practice of delays in organizing prescribed medical interventions is unacceptable, as the untimely organization of disease treatment can have irreversible consequences.

The lack of adapted vehicles for transferring persons deprived of liberty to medical facilities of health authorities remains a concern.

This issue was analyzed in detail in the Human Rights Defender's 2021 Annual Report as the National Preventive Mechanism¹⁹.

¹⁹ See on <https://www.ombuds.am/images/files/8636c95ac7349cbe5d51ff372cbcd8cc.pdf> as of 29.03.2024; para. 4.1.6:

In the absence of adapted vehicles, the transfer of persons deprived of liberty with mobility issues may worsen their health condition, causing various complications, discomfort, physical pain, and suffering, which is unacceptable.

Therefore, it is necessary to:

- ✓ ***Organize necessary examinations for persons deprived of liberty in a timely manner and without delays;***
- ✓ ***Organize necessary medical care for persons deprived of liberty in inpatient conditions at the SNCO's "Hospital for the Convicted" penitentiary institution or in medical facilities of health authorities in a timely manner and without undue delays;***
- ✓ ***Develop written interdepartmental cooperation procedures for organizing the transfer of persons deprived of liberty to medical facilities of health authorities and ensure their effective implementation;***
- ✓ ***Organize the transfer of persons deprived of liberty with mobility issues using adapted vehicles.***

4.1.5. Organization of Psychiatric Care in Penitentiary Institutions

Based on monitoring visits to penitentiary institutions in 2023, as well as analysis of individual complaints addressed to the Human Rights Defender, issues have been identified regarding the proper organization of psychiatric services in penitentiary institutions.

The subdivisions of the State Non-Commercial Organization (SNCO) located in penitentiary institutions, with the exception of the "Hospital for the Convicted" penitentiary institution, are licensed and provide only outpatient psychiatric care and services. In cases requiring inpatient psychiatric care and services, the person deprived of liberty is transferred to the appropriate department of the SNCO's "Hospital for the Convicted" penitentiary institution

The combination of the psychiatric ward with the infectious diseases ward in the "Hospital for the Convicted" penitentiary institution, where patients are kept together, continues to be concerning. Details of this issue were described in the Human Rights Defender's 2021 Annual Report as the National Preventive Mechanism²⁰.

Although the medical staff of SNCO subdivisions are generally staffed with psychiatrists, the "Goris" subdivision still lacks a psychiatrist. Meanwhile, persons deprived of liberty with mental health problems and under dispensary registration continue to be held in this penitentiary institution.

According to information provided by the Ministry of Justice, in 2023, the number of persons deprived of liberty with mental health problems under dispensary registration in penitentiary institutions was 217, of which 133 received inpatient treatment in the psychiatric ward of the SNCO's "Hospital for the Convicted" penitentiary institution, and one woman from the "Abovyan" penitentiary institution received treatment at the National Center for Mental Health.

Thus, about 10% of the total number of persons deprived of liberty had mental health problems, more than half of whom required inpatient treatment during 2023.

²⁰ See the report on <https://ombuds.am/images/files/3167e2e8e2e90d939c4cffd7c644593f.pdf> as of 29.03.2024; pages: 104-121:

Considering the above, it is also important to organize the proper medical examination of persons deprived of liberty upon admission to the penitentiary institution, which includes assessment of the person's mental health status, establishing supervision over it, and organizing preventive measures, taking into account the environment or psychological distress in which the person finds themselves from the moment of deprivation of liberty.

During a visit to the "Abovyan" penitentiary institution, issues encountered in the process of assessing the mental state of a juvenile person deprived of liberty upon entering the penitentiary institution were examined.

The form filled out for juvenile persons deprived of liberty was titled "Form for Recording Results of Mental Health Screening Tool Trial for Women in RA MoJ Penitentiary institutions", thus the form was initially intended only for women, the name of the person being examined was not indicated, and in the section for indicating gender, male was marked.

Regarding this issue, the Ministry of Health reported that according to Government Decision No. 614-N of April 27, 2023, the "Penitentiary Medicine Center" SNCO is under the jurisdiction of the Ministry of Health. With the support of the Council of Europe Office in Yerevan, it is planned to modify the medical documents used by the SNCO. To ensure continuity of medical care and service delivery during the document modification period, the "Form for Recording Results of Mental Health Screening Tool Trial in RA Ministry of Justice Penitentiary Institutions" approved by the Minister of Justice is still in circulation.

It remains concerning that proper mental health screening of persons deprived of liberty is not carried out upon admission to penitentiary institutions.

Despite the inclusion of psychiatrists in SNCO subdivisions, persons deprived of liberty addressed complaints to the Human Rights Defender throughout 2023 regarding cases of improper organization of inpatient treatment for those with mental health problems.

For example, the defence attorney of a detained person held in a penitentiary institution reported that their client has been in custody since April 2023 and, among other health issues, has obvious psychiatric problems such as insomnia and delusions, but is not receiving proper psychiatric care. During the complaint investigation, the Ministry of Health reported that in August and September 2023, the person was diagnosed with "Paranoid personality disorder - compensatory phase" and prescribed medication, which they refused. However, according to the information received, to prevent self-harm, the individual was under constant supervision of medical staff, particularly a psychiatrist.

In fact, the person had a mental disorder that posed a danger to themselves or others, but no involuntary treatment procedure was initiated, and the need for inpatient treatment was not considered.

Given the above, the National Preventive Mechanism's studies conclude that proper psychiatric care is not provided to persons deprived of liberty with mental health problems in penitentiary institutions, and their transfer to specialized departments is not organized.

During monitoring visits, persons deprived of liberty with mental health problems, like all other persons receiving medical care and services, do not give consent for outpatient treatment, examination, medical intervention, or organization of inpatient care in penitentiary institutions, and are not informed about their rights as patients.

It turns out that informed consent for outpatient treatment is not a mandatory condition, and it does not matter how the treatment of a person deprived of liberty is organized under these conditions, which is unacceptable.

It remains concerning that involuntary treatment procedures are not initiated when persons deprived of liberty with mental health problems who need inpatient treatment do not consent to such treatment, and they are transferred to their main place of punishment to receive outpatient treatment.

For instance, a person deprived of liberty was examined by a psychiatrist on August 24, 2023, and diagnosed with "Organic personality disorder complicated by drug use", and inpatient treatment was indicated in the conditions of the "Hospital for the Convicted" penitentiary institution. On August 28, 2023, they were transferred to the psychiatric ward of the "Hospital for the Convicted" penitentiary institution, where they were diagnosed with "Personality and behavioral disorders due to drug use" and prescribed medication. On September 1, 2023, the person deprived of liberty was discharged from the psychiatric ward of the "Hospital for the Convicted" penitentiary institution because they refused further treatment and submitted an application demanding discharge from the aforementioned facility. On the same day, the person deprived of liberty was transferred to the "Armavir" penitentiary institution, and the next day committed suicide by hanging themselves with a shoelace from the cell bars.

Thus, in the case of a person with mental health problems refusing inpatient psychiatric care, no involuntary treatment procedure was initiated, and the risk of possible suicide due to the person's diagnosed illness was not assessed.

In another case, a convict asked the person in charge of the day's duty group for an urgent appointment during nighttime hours. The cell door was opened to admit them, after which the convict attacked the correctional officers with a sharp metal object they had and caused bodily injuries.

According to the information received, the convict had been diagnosed with mental health-related problems, for which they were constantly under the supervision of the psychiatrist of the SNCO subdivision. Moreover, 3 days before the incident, the person deprived of liberty was examined by the psychiatrist of the SNCO subdivision, resulting in a referral for urgent hospitalization and transfer to the "Hospital for the Convicted" penitentiary institution, which the convict refused. Due to the lack of mechanisms for organizing inpatient psychiatric care against the person's will, the convict's transfer was not organized, resulting in the person continuing to be held in the cell and posing a danger to others.

After the incident, the convict was urgently transferred to the psychiatric ward of the "Hospital for the Convicted" penitentiary institution, where, according to their application, they refused inpatient treatment. The need to initiate involuntary treatment was not discussed at the "Hospital for the Convicted" penitentiary institution; only an outpatient examination by the head of the psychiatric ward was organized, and medication adjustment was made. The person deprived of liberty was returned to their main place of punishment and 3 days later, on the psychiatrist's order, was again urgently transferred to the psychiatric ward of the "Hospital for the Convicted" penitentiary institution for inpatient treatment, from where they were discharged a week later at their own request.

Thus, in the case of a person with mental health problems refusing inpatient psychiatric care, no involuntary treatment procedure was initiated, and the possibility of the person posing a danger to themselves or their surroundings due to their diagnosed illness was not assessed. At the same time, the absence of clear mechanisms for organizing the person's transfer against their will or their improper implementation led to an encroachment on the life and health of correctional officers.

An important component of the proper organization of medical care and services in penitentiary institutions is also the maintenance of medical confidentiality.

During monitoring visits, the Human Rights Defender's representatives recorded that correctional officers are informed about persons with mental health problems and the fact that they take psychotropic medications. Moreover, the distribution of these medications and supervision of their intake are also carried out by correctional officers in conjunction with the on-duty medical team.

Such an approach is unacceptable from the perspective of medical confidentiality.

The treatment of persons with mental health problems in penitentiary institutions continues to be concerning, with medication being the main component of treatment. This issue was analyzed in more detail in the Human Rights Defender's 2021 Annual Report as the National Preventive Mechanism²¹.

Including only psychotropic medication in the treatment program for persons deprived of liberty with mental health problems cannot be considered effective without a combination of psychotherapeutic and psychosocial rehabilitation measures.

Given the above, it is necessary to:

- ✓ ***Take steps to staff the SNCO's "Goris" subdivision with a psychiatrist specialist and ensure the availability of psychiatric services;***
- ✓ ***Take immediate steps to end the practice of keeping patients from other departments in the psychiatric ward of the "Hospital for the Convicted" penitentiary institution;***
- ✓ ***Organize necessary psychiatric inpatient medical care for persons deprived of liberty promptly and without undue delay;***
- ✓ ***Properly carry out mental health status assessment and prevention, as well as screening examinations in this regard, when admitting persons deprived of liberty to penitentiary institutions;***
- ✓ ***Organize inpatient treatment for persons deprived of liberty with mental health problems in accordance with the provisions of the RA Law "On Psychiatric Care and Services" and the orders of the RA Minister of Health, ensuring the person's right to give informed consent, as well as familiarizing persons deprived of liberty with their rights as patients;***
- ✓ ***Begin treatment of persons deprived of liberty with mental health problems with their written consent, and in its absence, initiate the procedure for involuntary hospitalization of the person as provided for in the RA Civil Procedure Code;***
- ✓ ***Ensure the confidentiality of medical information regarding persons with mental health problems;***
- ✓ ***Exclude the possibility of medical confidentiality, including data on persons deprived of liberty receiving psychotropic medications, becoming known to representatives of the penitentiary institution administration;***
- ✓ ***Include psychotherapeutic and psychosocial rehabilitation measures in individual treatment plans for persons deprived of liberty with mental health problems, in parallel with medication treatment.***

²¹ See the report on <https://ombuds.am/images/files/3167e2e8e2e90d939c4cffd7c644593f.pdf> as of 29.03.2024; pages: 104-121.

4.1.6. Organization of Dental Care in Penitentiary Institutions

During the 2023 monitoring by the National Preventive Mechanism, it was determined that a large number of persons deprived of liberty in penitentiary institutions have dental problems (partial or complete edentulism, need for dental or gum treatment, prosthetics, etc.).

Although all penitentiary institutions have conditions and appropriate specialists for providing dental services, the possibilities for delivering dental services are limited, and the facilities mainly perform dental treatment and extractions. This issue is more pressing among individuals serving long-term sentences.

In 2023, the Human Rights Defender received numerous complaints regarding the organization of dental care for persons deprived of liberty.

For instance, in one complaint addressed to the Defender, a person deprived of liberty reported having dental problems and not receiving proper medical care. The individual claimed to have been complaining for an extended period about inflammation of tooth roots, the presence of a cyst, and purulent discharge, but adequate treatment was not provided due to insufficient technical equipment in the dental office. Moreover, the complainant stated that they were forced to attempt to solve the problem independently by using a razor to drain the abscess.

The issue of dental service provision was only resolved following the intervention of the Human Rights Defender; the individual was transferred to a dental clinic where dental treatment and filling were performed, followed by prosthetics.

In another case, upon examining a complaint addressed to the Human Rights Defender, it was revealed that a detainee had lost a significant number of teeth while in custody, resulting in the loss of chewing ability and inability to eat properly. According to the complainant, they had appealed to the head of the SNCO subdivision in July 2023 to organize necessary dental care, particularly dental implantation, at their own expense, but their applications remained unanswered.

In response to the Human Rights Defender's inquiry on this matter, the Ministry of Health reported that permission was granted in August 2023 for the person deprived of liberty to organize dental implantation at their own expense. Furthermore, according to information provided by the ministry, due to the large number of persons deprived of liberty requiring urgent medical care in the SNCO subdivision, the individual's dental care would be organized on a scheduled basis. Notably, as of December 31, 2023, the detainee's dental implantation had not yet been organized.

In another complaint addressed to the Defender, a detainee reported having dental problems and being prescribed a CT scan of the oral cavity in October 2023, based on which dental prosthetics were to be performed. The detainee stated that they had appealed to the director of the SNCO, requesting to organize the said examination at their preferred dental clinic at their own expense, but as of December 31, 2023, the medical staff of the SNCO subdivision had not taken steps to organize the prescribed examination.

It should be emphasized that dental problems can lead to malnutrition and have negative consequences.

Thus, persons deprived of liberty have limited access to dental services in penitentiary institutions, which is concerning.

During monitoring visits, other issues related to the provision of dental services in penitentiary institutions were also recorded.

For example, during a visit to the "Vardashen" subdivision of the SNCO, it was noted that although the dental office was equipped with a dental chair, appropriate supplies, materials, and disinfection devices, the lack of running water in the dental office was concerning, which is a problem for the entire penitentiary institution. This complicates the washing and disinfection of dental supplies. Additionally, in the absence of a matron position, cleaning and disinfection tasks are organized by the doctor.

It should also be added that according to information provided by the Ministry of Health of the Republic of Armenia, the dental service positions in the "Hospital for the Convicted" penitentiary institution of the SNCO are vacant.

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

- ✓ ***Properly organize dental care for persons deprived of liberty, particularly by providing prescribed dental care promptly and without delays;***
- ✓ ***Provide the dental office of the "Vardashen" subdivision with permanent running water;***
- ✓ ***Take steps to fill the vacant dental service positions in the "Hospital for the Convicted" penitentiary institution of the SNCO.***

4.1.7. Release from Detention or Punishment on the Grounds of Severe Illness

In cases where it is impossible to treat or provide care for a severe illness of a person deprived of liberty in a penitentiary institution, the state should, to the extent possible, ensure the opportunity for care outside the penitentiary institution, care by relatives, and the possibility of a dignified life for persons deprived of liberty.

Therefore, it is important to have a clear and comprehensive legal regulation of the process of releasing persons deprived of liberty from serving their sentence (or from detention in the case of pre-trial detainees) on the grounds of severe illness.

This issue has been consistently addressed in the annual reports of the Human Rights Defender as the National Preventive Mechanism.

Despite the fact that Chapter 10 of the Annex to Government Decision No. 825-N of May 26, 2006, provided for the establishment of a Medical Commission under the Ministry of Justice, whose function would be to provide opinions on the appropriateness of changing the preventive measure for a detained person due to severe illness (disorders, conditions) in accordance with the Criminal Code and the Criminal Procedure Code, and to release a convicted person held in a penitentiary institution on the same grounds, the provisions of Chapter 10 of the same decision regarding the Medical Commission will enter into force from the moment the Government decision on establishing the procedure for the activities of the Medical Commission, its associated working group, and remuneration standards comes into force.

The draft of the aforementioned Government decision was developed by the Ministry of Justice and submitted for the opinion of the Human Rights Defender in 2020 and 2022. A number of issues were raised regarding the drafts, related to the requirements for members of the Medical Commission, the presence of specialists in the commission, deadlines for case discussions and submission of conclusions, procedural and several other issues, but the draft Government decision is still in the process of revision.

Given that Chapter 10 of the Annex to Government Decision No. 825-N of May 26, 2006, concerning the Medical Commission, has not actually entered into force, throughout 2023, issues regarding the need to release persons deprived of liberty from punishment or change the preventive measure on the grounds of severe illnesses continued to be regulated in accordance with the current legislation - based on Government Decision No. 1636-N of December 4, 2003, "On Approving the Procedure for Establishing Interdepartmental Medical Commissions."

Based on Government Decision No. 1636-N of December 4, 2003, "On Approving the Procedure for Establishing Interdepartmental Medical Commissions," three interdepartmental commissions continued to operate. These can be conditionally named as follows: *Interdepartmental Commissions on issues of release from punishment due to mental health conditions, release from detention due to severe illness, and release from punishment due to severe illness (hereinafter referred to as Interdepartmental Commissions)*.

Consequently, the issues recorded by the Human Rights Defender regarding the lack of clear procedures, mechanisms for appealing to these Interdepartmental Commissions, as well as the deadlines for case discussions, have remained unchanged, which is problematic, especially considering that the legislation has provided for the appropriate prerequisites for the operation of the Medical Commission, but these regulations have not yet entered into force.

According to statistical data provided by the Ministry of Justice, in 2023, the Interdepartmental Medical Commission examined 50 cases related to diagnoses impeding the further serving of sentences by convicts, of which 9 were satisfied.

The issue of deadlines for the Interdepartmental Commission to discuss and decide on the presence of severe illnesses impeding the serving of sentences remains unresolved.

Thus, in a group of individual complaints addressed to the Human Rights Defender, persons deprived of liberty claim that they suffer from an illness provided for in the indicative list of severe illnesses (disorders, conditions) impeding the serving of detention as a preventive measure or punishment, have applied to the relevant commission for discussion of the issue, but the discussion has been prolonged for an extended period.

Problems have also been recorded in the procedures related to the discussion of changing detention as a preventive measure for detained persons on the grounds of severe illness.

Thus, analyses of several cases show that the examination of cases by the interdepartmental medical commission appointed by the courts to discuss the issue of compatibility with severe illnesses impeding the serving of detention as a preventive measure is being prolonged for an extended period.

In another case, a detained person was held in the "Hospital for the Convicted" penitentiary institution, their health condition was assessed as severe, and it was indicated to continue treatment through programmed hemodialysis.

The judicial act issued by the Court of Appeal of the Republic of Armenia regarding the latter was appealed to the Court of Cassation of the Republic of Armenia, but the court has not yet accepted the appeal for proceedings. During this time, the person raised the issue of changing or eliminating the preventive measure due to their health condition, but due to the appeal of the judicial act issued by the Court of Appeal of the Republic of Armenia and the Court of Cassation not yet accepting the appeal for proceedings, they have not had the opportunity to submit a motion to discuss the issue of changing the preventive measure on the grounds of severe illness.

In this regard, Article 383, Part 5 of the Criminal Procedure Code of the Republic of Armenia stipulates that the Court of Cassation shall make a decision on accepting the cassation appeal for proceedings within a three-month period after receiving the criminal case in the Court of Cassation.

In fact, there are no legal regulations provided for discussing the issue of changing the preventive measure applied to a detained person on the grounds of severe illness until the Court of Cassation accepts the proceedings. Therefore, until the resolution of the issue of accepting the cassation appeal for proceedings - up to three months - the person is deprived of the opportunity to discuss the issue of changing the preventive measure on the grounds of severe illness, which is problematic, considering that during this period the person's health condition may sharply deteriorate and cause irreversible consequences.

The issue of qualifying diseases not included in the indicative list defined by Government Decision No. 825-N of May 26, 2006, as severe remains unresolved, particularly in cases where they pose a real threat to the life of the detained person or convict or create a severe health condition, the complications of which are similar to the complications of diseases defined in the indicative list.

Since Chapter 10 of the Annex to Government Decision No. 825-N of May 26, 2006, concerning the Medical Commission, has not actually entered into force, consequently, Paragraph 96 included in the mentioned chapter has not been in effect either, according to which *the Medical Commission has the right to provide an opinion on the presence of diseases (including conditions or disorders) or a combination of diseases impeding the serving of detention as a preventive measure or punishment, which, although not included in the indicative list provided by this procedure, are qualified as severe and:*

- 1) are manifested in different degrees of severity and extent of damage and are accompanied by severe and profound disorders of activity and participation, in particular, such disease(s) which, not being widespread at the time of adoption of this decision, practically pose a real threat to the life of the detained person or convict (for example, diseases related to the destruction of the body as a result of drug use), or*
- 2) create a severe health condition, the complications of which are similar to those arising from diseases defined in the indicative list provided by this procedure.*

It should be noted that although important legislative changes have been implemented regarding issues of changing preventive measures or releasing from punishment on the grounds of severe illness, nevertheless, some legal and practical issues continue to remain relevant, which negatively affects the protection of the rights of persons deprived of liberty.

In an individual complaint addressed to the Human Rights Defender in 2023, a convict reported suffering from lung cancer, and the compatibility of their diagnoses with the list of diseases impeding the serving of punishment defined by Government Decision No. 825-N of May 26, 2006, was discussed by the Interdepartmental Medical Commission.

The person deprived of liberty underwent examinations and consultations at the "National Center of Oncology after V.A. Fanarjyan" CJSC in November 2022, as a result of which they were diagnosed with "Left kidney c-r T3NxMx, condition after left nephrectomy, hypervascular focus adjacent to the left lumbar muscle, implantation metastasis, single focus metastasis in the right lung," the degree of which can only be determined by pathohistological examination, and the biopsy sample necessary for the examination can be taken by surgical intervention. It should be noted that the person deprived of liberty refused surgical intervention for this purpose.

One year later, in December 2023, the aforementioned medical center provided a consultation sheet, according to which the issue of performing a biopsy of the CT-described formation's local recurrence (implantation metastasis?) by ultrasound or CT examination was discussed, and it was not possible to perform it by ultrasound examination, as it was not possible to visualize it by ultrasound, and CT-guided biopsy is not advisable to perform in order to avoid possible intestinal damage during the biopsy. Only surgical removal of the described formation was recommended, but the convict also refused surgical intervention.

The above gave grounds for the Interdepartmental Commission to conclude that their diagnosis does not correspond to the list of diseases impeding the serving of punishment defined by Government Decision No. 825-N of May 26, 2006, as this issue could only be discussed based on the response of the pathohistological examination.

It is noteworthy that similar examples have been recorded for years.

Another issue is that due to the lack of appropriate legislative regulations, there is no procedure provided for determining the circumstance of suffering from a disease impeding the detention of persons wanted by the competent authorities of a foreign state and discovered (detained) in the Republic of Armenia.

Thus, a foreign national has been detained for the purpose of extradition within the framework of a criminal case pending before the competent authorities. According to attorneys, the individual's illnesses are incompatible with detention as a preventive measure, and their health issues are further exacerbated, resulting in frequent deterioration of the detainee's well-being. However, there is no possibility to consider changing the preventive measure.

Within the framework of the legislation of the Republic of Armenia, examinations regarding the compliance of a detained person's illness with the indicative list of severe diseases that impede serving detention as a preventive measure or punishment can be conducted at the "Forensic Scientific and Practical Center" SNCO only on the basis of a decision by the body conducting the proceedings.

At the same time, according to Article 21 of the Law of the Republic of Armenia "On Holding Arrested and Detained Persons," *if a severe illness is detected in an arrested or detained person that may lead to their mental disorder or death, the head of the relevant institution shall, based on a medical conclusion, motion the body conducting the criminal proceedings and the supervising prosecutor to eliminate or change the coercive measure.*

The implementation of the aforementioned criminal law provisions is ensured through a specific procedure and the presence of a number of conditions, in particular, the existence of criminal proceedings is required. Meanwhile, in this specific case, the foreign national has been detained for extradition within the framework of a criminal case pending before the competent authorities of another country.

It turns out that under incomplete legislative regulations, it is not possible to discuss whether the diagnoses of detained foreign nationals correspond to the indicative list of severe diseases (disorders, conditions) that impede serving detention as a preventive measure or punishment.

In this regard, it is indisputable that both inadequate legal regulations and the complete absence of appropriate legal regulations or mechanisms cannot lead to obstacles in the realization of the rights of persons held in custody, especially when the existence of the institution of release from detention as a preventive measure or punishment on the grounds of severe illness has special significance in the

legislation of the Republic of Armenia, and it is based on a humanitarian approach towards detained persons.

Regarding the described issue, the Prosecutor General's Office and the Ministry of Justice of the Republic of Armenia have stated that a draft Law "On Legal Assistance in Criminal Proceedings" is being developed by a jointly formed working group, which will also regulate the procedure for determining whether persons wanted by competent authorities of foreign states and detected (detained) in the Republic of Armenia suffer from an illness that impedes their detention and extradition, which will contribute to a comprehensive solution to the problem.

Problems have also been recorded in cases of release from punishment on the grounds of severe illness, in the procedure for determining whether a person's diagnosis corresponds to the list of diseases impeding the serving of punishment established by Government Decision No. 825-N of May 26, 2006, due to different names of the same commission discussing the issue in various legal regulations.

In particular, according to Part 1 of Article 135 of the Criminal Executive Code of the Republic of Armenia, for the purpose of discussing the issue of release from punishment due to illness, a conclusion of a medical commission is submitted to the court along with the motion, whereas according to Part 4 of Article 87 of the Criminal Code of the Republic of Armenia, if after the verdict is rendered, a person develops another illness that makes it impossible to serve the punishment, the court releases them from serving the punishment based on a forensic medical examination.

It should be noted that in the presence of different legal formulations in the Criminal and Criminal Executive Codes, it turns out that in cases where a conclusion of a medical commission is submitted to the court along with the motion for the purpose of discussing the issue of release from punishment, the court is not authorized to discuss the issue of release from punishment, since according to the Criminal Code, the fact of the person having an illness can be confirmed on the basis of a forensic medical examination conclusion. Moreover, taking into account the fact that the court discussing the issue of release from punishment is not the body conducting the proceedings, it is not authorized to appoint a forensic medical examination at this procedural stage. As a result, although there is a legal procedure for release from punishment on the grounds of illness, the court, within the scope of its powers, cannot bring up the issue of release from punishment on these grounds for discussion. The problem is further exacerbated by the fact that Chapter 10 of the Annex to the Government Decision No. 825-N of May 26, 2006, concerning the medical commission, has not de facto entered into force yet, and issues regarding the need to release detained persons from punishment or change the preventive measure on the grounds of severe illnesses continue to be discussed by interdepartmental medical commissions operating on the basis of the Government Decision No. 1636-N of December 4, 2003 "On Approving the Procedure for Establishing Interdepartmental Medical Commissions."

Regarding the issue, in a complaint addressed to the Human Rights Defender, the attorney informed that the convict has a first-degree disability, and according to the conclusion of the interdepartmental medical commission dated November 20, 2023, the diseases diagnosed in the latter correspond to the indicative list of severe diseases impeding the serving of punishment established by the Government Decision No. 825-N of May 26, 2006. It was also reported that based on this conclusion, the head of the relevant penitentiary institution of the Ministry of Justice of the Republic of Armenia submitted a motion to the court of first instance of general jurisdiction in November 2023, requesting to consider the issue of releasing the convict from further serving the punishment. During the court sessions

on the examination of the motion, the prosecutor objected to the motion, insisting that according to Part 4 of Article 87 of the Criminal Code of the Republic of Armenia, it should be based on the results of a forensic medical examination. Within the framework of the examination of the motion, the court-appointed a forensic medical examination, and only after receiving the relevant conclusion did the court release the convict from further serving the punishment.

Taking into account the above, it is necessary to:

- ✓ ***Immediately clarify the procedure for the operation of the medical commission on issues of release from detention as a preventive measure or punishment on the grounds of severe illness, establishing procedural guarantees and clear deadlines for case consideration.***
- ✓ ***Establish regulations by an appropriate legal act for the procedure of determining whether persons wanted by competent authorities of foreign states and detected (detained) in the Republic of Armenia suffer from an illness that impedes their detention and extradition, and the processes arising from it.***
- ✓ ***Clarify the complete procedure for release from detention as a preventive measure or punishment on the grounds of severe illness.***

4.1.8. Ensuring Medical Confidentiality and Obtaining Informed Consent in Penitentiary Institutions

Issues related to maintaining the confidentiality of the personal data of detained persons, including information about their health condition, diagnostic medical examinations, specialist visits, as well as general therapeutic and surgical procedures, continue to be problematic.

Thus, during monitoring visits conducted in 2023, representatives of the Human Rights Defender recorded problems related to maintaining medical confidentiality. Studies in penitentiary institutions indicate that correctional officers continue to be informed about the illnesses of detained persons, the medications they take, and in some cases, even the dosages.

The flawed practice of conducting medical examinations of detained persons entering the penitentiary institution with the participation of correctional officers and/or escorting police officers continues.

In "Artik" and "Sevan" penitentiary institutions, the external examination of detained persons entering the facility was performed by the duty nurse (paramedic) in conjunction with the search, in the presence of correctional officers, including the duty officer in charge, security department officer, as well as the escorting police officer, which is inadmissible.

Moreover, according to information received during monitoring visits, in the "Artik" penitentiary institution, medical examinations in cells are conducted in the presence and under the supervision of correctional officers. The provision of medication during methadone substitution treatment is also carried out in the presence of employees from the operational and security departments of the penitentiary institution.

During monitoring visits conducted by the National Preventive Mechanism, issues were also recorded regarding the accessibility of registers and documents containing medical confidentiality by the administration of penitentiary institutions.

For instance, in "Artik" penitentiary institution, comprehensive information about medical interventions in the disciplinary cell unit was recorded in the "Register of Reception of Detained Persons and Convicts in Disciplinary Cells," which also contained information about the reception by the duty officer in charge, and this register was kept by the duty correctional officer of the unit. As a result, correctional officers have access to information containing medical confidentiality about detained persons, which is inadmissible. A similar situation was recorded in the "Sevan" penitentiary institution.

Moreover, a study of the "Records of Subjecting Detained and Convicted Persons to Body Searches" in "Artik" penitentiary institution revealed that the results of external examinations are reviewed by the detained person and the escorting police officer, who confirm it with their signatures.

Thus, the monitoring of the National Preventive Mechanism shows that medical confidentiality continues to be violated in penitentiary institutions, as penitentiary institution officers, and in some cases escorting police officers, directly participate in medical examinations of detained persons, organization of treatment, learn about medications taken, their dosages, information about syringes used, and have access to documents containing medical confidentiality.

The Human Rights Defender considers it necessary to emphasize once again that such violations of medical confidentiality are inadmissible.

Another issue is the failure to obtain informed consent from detained persons in penitentiary institutions for medical examinations, treatment, and other interventions.

The problem is described in detail in the 2021 Annual Report on the activities of the Human Rights Defender as the National Preventive Mechanism²².

Thus, medical interventions continue to be carried out on detained persons in penitentiary institutions without obtaining their written informed consent, which is inadmissible and violates the law and relevant standards.

Therefore, it is necessary to:

- ✓ ***Ensure compliance with the legal requirements for maintaining medical confidentiality regarding detained persons.***
- ✓ ***Conduct medical interventions in penitentiary institutions only after obtaining written informed consent from detained persons.***

4.1.9. Provision of Care in Penitentiary Institutions

In practice, there are cases when a detained person requires specialized care due to their health condition. Based on the examination of complaints addressed to the Human Rights Defender, as well as monitoring visits, it has been established that despite certain improvements, the scope of care provided to detained persons remains insufficient.

The results of monitoring by the National Preventive Mechanism show that when it is impossible to provide proper care in penitentiary institutions, the care of detained persons is generally not organized in medical institutions of health authorities or the "Hospital for Convicted Persons" penitentiary institution.

²² See the report on <https://ombuds.am/images/files/3167e2e8e2e90d939c4cffd7c644593f.pdf> as of 29.03.2024; pages:136-137.

For example, in one complaint addressed to the Defender, a detained person reported that in connection with the diagnosis of "Jaw osteomyelitis, HIV/AIDS, hepatitis C", they received inpatient treatment at the "Hospital for Convicted Persons" penitentiary institution, but was discharged without justification.

The issue was discussed with representatives of the medical staff of the SNCO subdivision, who stated that the detained person was prescribed surgical intervention and inpatient treatment, in connection with which it was proposed to transfer them to a medical institution of health authorities, but the latter refused surgical intervention. It is noteworthy that the person needed specialized care.

As a result of the Defender's intervention, the prescribed inpatient treatment and care for the detained person was organized at the "Hospital for Convicted Persons" penitentiary institution.

In some cases, when a detained person is transferred to a medical institution of health authorities and it is not possible to organize their care through relatives, in many cases the person remains without specialized care, as neither the SNCO provides appropriate services, nor the medical institutions.

In another case, in an individual complaint addressed to the Human Rights Defender, a lawyer reported that their client was under the care of a nanny before being detained and needed constant care. According to information received from the Ministry of Health in response to the Defender's letter, the detained person was admitted to the penitentiary institution with a diagnosis of "Lateral amyotrophic sclerosis, quadriparesis, certain difficulty breathing", moved in a wheelchair, had immobile hands and feet, and breathed with a respiratory device when lying down at night. The latter was placed in the medical unit of the penitentiary institution, where the medical staff provided supervision and care. One week after being admitted to the penitentiary institution, the detained person was transferred to a specialized medical institution with a preliminary diagnosis of "Limb numbness, involuntary defecation" to assess their health condition, clarify the diagnosis, and determine the need for a caregiver. The lawyer of the detained person provided information to the Human Rights Defender's Office that after receiving treatment for one week in the medical institution, they were preparing to discharge their client, insisting that the person needs specialized care. As a result of discussions by the representative of the Human Rights Defender, the detained person continued to be kept in the medical institution and days later was transferred to a palliative care center.

Another issue is the matter of providing care for a detained person in a specialized care institution under state-guaranteed free and privileged conditions.

Thus, through the examination of individual complaints addressed to the Human Rights Defender, it was revealed that a detained person was transferred to a palliative care center in connection with severe illnesses. It should be noted that the SNCO did not provide an appropriate referral for the care of the detained person to be carried out under state-guaranteed free and privileged conditions, explaining that palliative care in a specialized civil organization can be carried out under state-guaranteed free and privileged conditions only based on a functional assessment conclusion of the person.

As a result of the Human Rights Defender's intervention, the detained person was provided with an appropriate referral without a functional assessment.

It should be emphasized that detained persons in need of care are mostly kept in separate medical units in penitentiary institutions. As recorded during monitoring visits, an adapted and accessible environment for persons with disabilities was not created in the cells of these units.

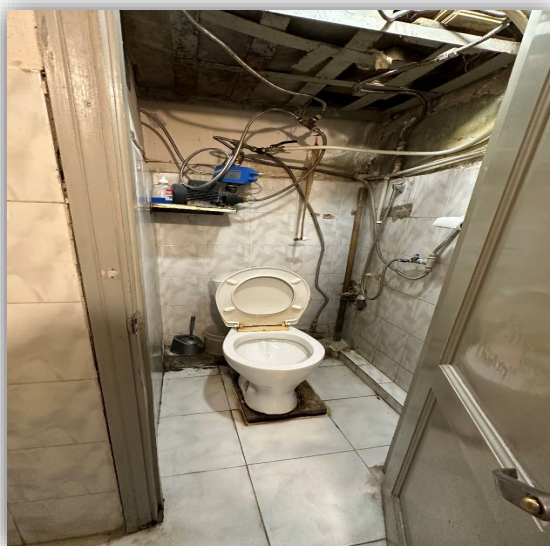
Thus, during a monitoring visit to the "Vardashen" penitentiary institution by the National Preventive Mechanism in 2023, it was recorded that the unit of this subdivision was separated for detained persons in need of care and medical assistance. The department had 4 patient rooms with the capacity to accommodate 13 beds. At the time of the visit, 7 detained persons were kept there, who mainly needed care.

The floors of the patient rooms in the "Vardashen" subdivision department were broken. The plaster on the ceilings and walls of some patient rooms and corridors was peeling, and there was a need for renovation in these areas. The humidity level in the patient rooms was high. Cleaning work in the department was carried out by detained persons who were receiving inpatient treatment there.

Two toilets were separated in the department, one of which was one step higher than the floor and combined with the shower room, while the other toilet was separate, with access from the shower area. It should be noted that the toilet and shower room were not adapted to the needs of persons with mobility difficulties, while in different residential units, cells were separated and furnished with facilities for persons with disabilities.

The exercise of detained persons kept in the department was organized in a separate exercise yard. The entrance to the exercise yard was also not adapted for persons with mobility difficulties, in particular, it was not equipped with a ramp, and the area was uneven. There was a bench in the exercise yard, above which a cover was installed on the bars to shelter from adverse weather conditions, but due to the gap between the cover and the wall, rainwater fell on the bench. The only exercise equipment in the exercise yard was a dumbbell.





Medical department detention conditions

The patient rooms of the former inpatient facility of the "Artik" subdivision of the SNCO, located in one of the buildings of the "Artik" penitentiary institution, were being used at the time of the visit as accommodation for persons with health problems and related socialization difficulties. Persons who had ended their hunger strikes were also kept there for short periods.

It should be noted that the buildings of the "Artik" penitentiary institution were not adapted for persons with disabilities, their entrances did not have ramps, and it was only possible to enter them by stairs.

In the "Sevan" penitentiary institution, the building allocated for the provision of medical services was located on the second floor of the building, where patient rooms were provided with the capacity to accommodate up to 30 beds. It should be noted that medical services were difficult to access for persons with disabilities, as the building was not equipped with an elevator, and the entrance did not have a ramp. It should be noted that persons with mobility difficulties kept there generally did not go out for exercise due to the difficulty of using the staircases. The lack of an adapted and accessible environment also does not contribute to the easy accessibility of medical services.

At the time of the visit, persons with psychiatric diagnoses were kept in separate patient rooms of the "Sevan" subdivision of the SNCO. Mainly persons who have socialization problems due to health issues and cannot be kept in general accommodations were transferred to this building.

There was a need for renovation in the "Sevan" subdivision building of the SNCO: the plaster on the ceilings and walls of its corridors and some patient rooms was peeling, and the floors were broken in places. The humidity level in the patient rooms was high, and there was a stench in some patient rooms. Cleaning work in the building was carried out by detained persons receiving inpatient treatment there. The toilet and shower room of the building were not adapted to the needs of persons with mobility problems.

In response to the letter regarding the monitoring visit to the penitentiary institution, the Ministry of Health of the Republic of Armenia informed that all subdivisions of the SNCO have been staffed with a matron position, which is welcome.

Thus, the lack of necessary and sufficient conditions for the care of detained persons (including persons with mobility difficulties) is problematic and can lead to the violation of a number of their rights.

According to information provided during monitoring visits to penitentiary institutions, the care of persons in need of care is mainly organized through other detained persons, including those involved in the technical and economic maintenance work of the facility, and by the junior medical staff of the subdivision.



Walking area of medical department

In this regard, according to international standards, the state is obliged to ensure the constant care of detained persons with special needs by specially trained professionals. Therefore, organizing the care of a detained person by a cellmate may not be problematic in itself if such care is provided by a detained person who has the appropriate profession or has undergone special training for that purpose.

International jurisprudence considers issues related to the health protection of detained persons and the provision of proper medical care to them in the context of torture, and inhuman or degrading treatment.

Government Decision No. 825-N of May 26, 2006, establishes an obligation for the medical subdivisions of the SNCO located in penitentiary institutions to organize care for detained persons in cases of certain diseases (e.g., diabetes, neoplasms, psychiatric illnesses, etc.).

It is also concerning that penitentiary institutions are not equipped with the necessary supplies to organize professional care for patients.

It should be noted that the shower rooms and toilets of the medical units of penitentiary institutions were not equipped with special supports, handles, fasteners, adapted toilet bowls, and other amenities, making it almost impossible for persons with mobility problems to use them. The corridors of the units were also not adapted for the movement of the latter: there were no handles provided, and the entrance to some patient rooms was one step higher than the general level of the department corridor floor.

Some detained persons were not kept in their registration units, also due to the lack of care or the ability to overcome mobility difficulties.

Even in cases where some cells in the buildings of penitentiary institutions were adapted to the needs of persons with mobility difficulties, they were mostly located on the second floor of the buildings, and the staircase was not adapted for the movement of persons with mobility problems, nor was there an elevator.

Taking into account the above, it is necessary to:

- ✓ ***Review the medical staff positions of penitentiary institutions, providing additional positions to properly organize specialized care for detained persons;***
- ✓ ***Provide penitentiary institutions with necessary medical supplies to organize care for detained persons;***
- ✓ ***Ensure an adapted and accessible environment for persons with mobility problems in the shower rooms and toilets of penitentiary institution departments;***
- ✓ ***Transfer detained persons to specialized medical institutions of health authorities in cases of insufficient care provided in penitentiary institutions;***
- ✓ ***Conduct periodic training for the medical staff of penitentiary institutions on the organization of patient care.***

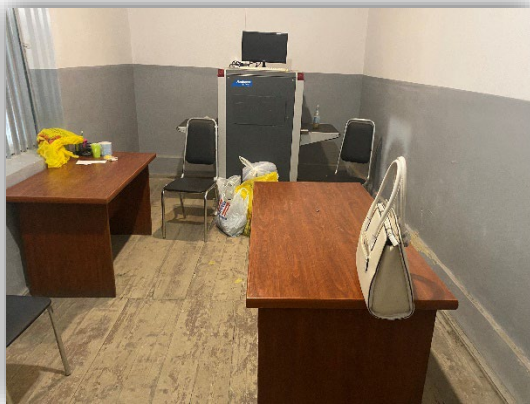
4.1.10. Initial Medical Examination

The practice of improper physical examinations of persons deprived of liberty upon admission to penitentiary institutions remains a concern. The absence of rooms designated for initial medical examinations, or the inadequate furnishing of such rooms where they do exist, is problematic.

For instance, monitoring visits revealed that at the "Artik" Penitentiary Institution, physical examinations of newly admitted detainees were conducted in rooms intended for the duty officers of the penitentiary or for organizing receptions with the head of the institution. At "Vardashen" Penitentiary Institution, examinations were conducted in a separate room within the "Isolation" building, while at "Sevan" Penitentiary Institution, they were performed in a room adjacent to the entrance for prisoner transport vehicles, which was used for inspecting personal belongings and conducting searches. It should be emphasized that these rooms were not properly equipped for medical examinations, lacking medical examination tables, clothing hooks, and sometimes an adequate number of chairs and a table. At the time of the visit, the examination room at "Vardashen" Penitentiary Institution was in unsatisfactory sanitary and hygienic conditions, while at "Artik" Penitentiary Institution, access to the duty officer's room required climbing a high and inconvenient metal staircase.

At "Vardashen" Penitentiary Institution, initial medical examinations of incoming persons were sometimes conducted by unit nurses in the general office space as needed, where it was not possible to organize the examination within view of officers if necessary. Moreover, if another detainee required medical services during the same period, simultaneous organization was not possible due to the presence of only one office.

The room designated for medical examinations at "Sevan" Penitentiary Institution lacked a heating system. According to the information received, the room was heated with electric heaters when necessary.



Medical examination room

The lack of a properly equipped room for initial examinations is problematic, as a thorough medical examination is required in each case, with the need to complete a "Medical Examination and Documentation Form for Cases of Torture and Other Forms of Ill-treatment" and corresponding report as necessary, as well as to provide urgent medical assistance.

In this regard, it should be noted that the absence of a properly equipped room for initial medical examinations in penitentiary institutions does not contribute to the proper conduct of such examinations, which is unacceptable.

Monitoring also revealed issues in the process of conducting initial medical examinations of persons admitted to penitentiary institutions.

The participation and presence of penitentiary officers during initial medical examinations, or their conduct and approval of such examinations, continues to be problematic.

During visits, it was observed that at "Artik" and "Sevan" Penitentiary Institutions, medical examinations of detainees by the duty nurse or paramedic were conducted simultaneously with searches, in the presence of penitentiary officers such as the duty officer in charge, security department officer, and escorting police officer, which is impermissible.

The Ombudsman once again emphasizes that medical examinations should be conducted only by medical staff and out of the hearing and, unless the relevant doctor requests otherwise, out of the sight of penitentiary staff.

The practice of simultaneously conducting initial medical examinations of multiple detainees also continues.

For example, a review of the "Medical Examination Registry for Persons Admitted to Penitentiary Institutions" at "Artik" and "Sevan" Penitentiary Institutions revealed that medical examinations of more than one incoming detainee were conducted simultaneously, with the same examination time recorded. It should be noted that in many cases, the time of the medical examination was not even recorded in the aforementioned registry, and the registry was filled out with deletions, corrections, and omissions.

Moreover, a review of the aforementioned registry at the "Artik" Penitentiary Institution revealed that in some cases, a detainee's medical examination was conducted before the person had entered the penitentiary institution.

Monitoring at the "Vardashen" Penitentiary Institution also revealed that detainees undergo external medical examination only once - upon admission to the penitentiary institution. In other cases, when a person is transferred to court or to participate in any investigative action and returns to the penitentiary institution, no external medical examination is conducted.

Interviews conducted during visits revealed that medical examinations are often limited to inquiring about the person's complaints or injuries (for example, at "Abovyan" Penitentiary Institution).

This approach cannot fully contribute to the proper organization of prevention, detection, and effective investigation of cases of torture and ill-treatment.

Detailed regulations regarding medical examinations are contained in the RA Government Decree No. 825-N of May 26, 2006, Annex Paragraph 12 of which stipulates that medical examinations are conducted by SNCO doctors, while Paragraph 13 states that medical examinations are conducted out of the hearing and, unless the examining doctor requests otherwise, out of the sight of officers of the detention facility or penitentiary institution who are not medical staff, or officers conducting the transfer of the detainee or convict. Medical examinations of detainees or convicts are conducted individually and separately.

In this regard, the CPT has noted that medical examinations of persons deprived of liberty (upon arrival or later) should be conducted out of the hearing and, unless the relevant doctor requests otherwise, out of the sight of staff working in the place of deprivation of liberty. The medical examination of a person deprived of liberty should be conducted individually, not in groups.²³

In its 2016 report on Armenia, the CPT also addressed medical examinations conducted in places of deprivation of liberty as a preventive measure against torture. In particular, the CPT, reaffirming recommendations from previous years' reports, noted that the initial medical examination of a person upon admission to a place of deprivation of liberty, especially the recording and reporting of injuries received, is not properly conducted. The CPT found it problematic that the examination is organized as part of the admission procedure to the place of deprivation of liberty, in the presence of escorting police officers and penitentiary administration staff, violating the principle of medical confidentiality.

During the monitoring visit, it was recorded that at the "Artik" unit of the SNCO, a "Medical Examination and Documentation Form for Cases of Torture and Other Forms of Ill-treatment" and corresponding report were never completed, despite the fact that persons admitted to the penitentiary institution had at least various bodily injuries. Notably, the possible causes of injuries were often not recorded.

For example, upon admission to "Artik" Penitentiary Institution, a detainee was recorded as having "scratches on the nose, bruising on the right hip area, bruising on the right shoulder blade, scratches in the right lumbar region, bruising on the left shoulder blade" with the cause noted as "falling a few days ago." No other details describing the incident were noted in the report.

Moreover, a review of the aforementioned reports reveals that the results of the external examination are reviewed by the detainee and the escorting police officer, who confirm it with their signatures. Given these circumstances, particularly the participation of police officers and penitentiary officers in the medical examination, as well as the practice of the latter reviewing the examination results, it cannot be ruled out that the detainee may have been inhibited from declaring the true causes of the

²³ See the CPT's 2nd General Report, covering the period from January 1 to December 31, 1991, available on the website <https://rm.coe.int/1680696a3f> as of 29.03.2024, paragraph 51.

injury. In fact, this case was not properly investigated, as the person was not subjected to a proper medical examination, a "Medical Examination and Documentation Form for Cases of Torture and Other Forms of Ill-treatment" and corresponding report were not completed as required by law, and the competent authority was not informed about the incident. At the same time, the registries lacked records regarding cases where the causes of injuries were unknown, their anatomical location, dimensions, and other criteria describing the injury, which is insufficient for the detection and proper documentation of cases of torture and ill-treatment.

It should also be emphasized that no legal act prescribes a format for drafting the "Report on Subjecting Detained and Convicted Persons to Physical Examination."

It was also recorded at "Artik" Penitentiary Institution that the unit doctor only sees the detainee on the next working day after admission to the penitentiary institution, and a review of the "Medical Examination Registry for Persons Admitted to Penitentiary Institutions" showed that no proper professional medical examination and documentation is conducted in the penitentiary institution.

In the absence of a doctor at the "Sevan" unit of the SNCO, the medical examination was conducted by a paramedic and was generally limited to inquiring about the detainee's complaints and conducting an external examination.

A review of the corresponding registry at the "Artik" and "Sevan" units of the SNCO also revealed that in the absence of complaints and bodily injuries of the detainee, no notes are made; sometimes, only "no complaint" is noted or the inscription "not tortured" or "tortured" is made.

At the "Artik" unit, a "Report on Subjecting Detained and Convicted Persons to Physical Examination" was drawn up regarding the medical examination of detainees, which in many cases significantly differed from the results of the medical examination of the same person recorded in the "Medical Examination Registry for Persons Admitted to Penitentiary Institutions." Even when injuries were detected in persons admitted to the penitentiary institution, no record was made in the "Medical Examination Registry for Persons Admitted to Penitentiary Institutions." Injuries detected in a detainee were recorded in the "Report on Subjecting Detained and Convicted Persons to Physical Examination" as well as in the latter's medical card.

The Human Rights Defender's Office received a hotline call prompting representatives to visit the "Abovyan" Penitentiary Institution. They discovered that two detained minors had been admitted to the facility the previous night with bodily injuries. The medical staff of the penitentiary's healthcare unit conducted a medical examination. One minor's medical record documented: "...a 2-3 cm diameter bruise near the fold on the inner part of the arm, a 1 cm diameter abrasion in the lower back area, a faint bruise on the right side of the neck, and slight redness under the left eye and on the forehead." It should be emphasized that during a private conversation with the Defender's representatives, the detained minor stated that the injuries were sustained as a result of actions by police officers.

The investigation also revealed that at least 30 hours after admission to the penitentiary, despite the medical staff documenting injuries on the minor, the appropriate "Medical Examination and Incident Recording Form for Torture and Other Forms of Ill-treatment" and the corresponding protocol had not yet been prepared for submission to the competent investigative bodies. Furthermore, the possible causes of the injuries were not recorded in the medical chart. Moreover, in response to the Defender's inquiry regarding the above, the Ministry of Health informed that the form was not completed because, during a private conversation with the duty nurse, the detainee did not specify the true cause of the injuries.

This suggests that if a detained person does not explicitly report that an injury is a result of ill-treatment, no corresponding report is prepared and no form is filled out, even if the physical injuries and psychological symptoms do not rule out alleged manifestations of ill-treatment.

In this context, it should be noted that Government Decree No. 825-N of May 26, 2006, does not stipulate any reservations regarding not informing law enforcement agencies about the discovery of injuries on a detained person.

Specifically, according to point 16.1 of the Annex to Government Decree No. 825-N of May 26, 2006, the protocol form is to be completed if:

1. There is a written or oral statement from the detainee or convict that the bodily injury or health complaint is a result of torture or other forms of ill-treatment;
2. The medical professional discovers, including during a medical examination, that the detainee's or convict's bodily injury or health complaint may be a result of torture or other forms of ill-treatment.

According to point 16.2 of the same decree, in each case of alleged torture or other forms of ill-treatment, the medical professional is obligated to:

1. Conduct a proper medical examination and complete the protocol form;
2. Send the protocol form to the competent investigative body;
3. Inform the detainee or convict of their right to obtain a second professional opinion or other opinions of their choice at their own expense.

Thus, the Human Rights Defender notes that proper professional medical examinations of detained persons in penitentiary institutions are not being conducted, nor are they being properly documented and reported to law enforcement agencies in accordance with relevant standards, which is unacceptable.

Failure to complete the protocol form for injuries detected during the initial examination and not sending it to law enforcement agencies does not align with the main purposes and requirements of the initial examination, nor with the relevant international standards.

In this regard, point 15 of the Annex to Government Decree No. 825-N of May 26, 2006, stipulates that the outpatient medical card of the detained person, the medical examination register of those admitted to detention facilities or penitentiary institutions, and the medical examination protocol form related to torture or other forms of ill-treatment must include:

1. A complete picture of all statements made by the detainee or convict subject to medical examination, including a description of their health condition and any statements related to torture or other forms of ill-treatment;
2. A complete picture of the results of the objective medical examination;
3. The doctor's conclusion is based on the requirements of sub-points 1 and 2 of this point.

The identified issues lead to the conclusion that both the organization of the initial medical examination procedure and the practice of documenting detected injuries do not comply with domestic and international legal standards.

According to information provided by the Ministry of Health, in 2023, 68 medical examination protocols related to torture or other forms of ill-treatment were prepared and processed as prescribed by Chapter 2.1 of the Annex approved by Government Decree No. 825-N of May 26, 2006.

Therefore, it is necessary to:

- ✓ *Provide a separate, properly furnished room for conducting medical examinations of persons entering penitentiary institutions, ensuring that this room can be kept within visual range of correctional officers as needed;*
- ✓ *Adhere strictly to the legislative requirements for conducting and documenting initial examinations, follow the guidelines for properly completing medical examination protocol forms for detained persons, and ensure their practical application;*
- ✓ *Prevent the simultaneous conduct of external medical examinations and searches of detained persons;*
- ✓ *Conduct medical examinations outside the hearing and visual range of correctional and police officers, maintaining medical confidentiality;*
- ✓ *Organize external medical examinations of detained persons for any entry to and exit from penitentiary institutions in specially adapted locations with adequate conditions;*
- ✓ *Conduct external medical examinations of detained persons upon admission to penitentiary institutions on an individual basis as prescribed by law;*
- ✓ *Eliminate the use of protocol forms not prescribed by legislation;*
- ✓ *Properly maintain the "Medical Examination Register of Those Admitted to Penitentiary Institutions";*
- ✓ *Ensure the practical application of the medical examination protocol form for detained persons to implement uniform and effective medical examinations, prevent torture and other forms of ill-treatment, and detect incidents;*
- ✓ *Conduct periodic training for medical staff on implementing medical examinations related to torture and inhuman or degrading treatment, completing forms and documentation, properly recording injuries, and maintaining medical confidentiality, as well as establishing proper oversight of initial examinations.*

4.1.11. Medical Supervision of Persons Refusing Food or Water

Persons deprived of liberty in penitentiary institutions often declare hunger strikes as a form of protest.

Through the analysis of monitoring visit results and individual complaints, it has been recorded that the reasons for persons deprived of liberty declaring hunger strikes were related to the charges brought within the criminal case framework, the preventive measures applied against them, decisions regarding visitation restrictions, disagreement with the issued verdict, the course of court proceedings, postponement of court sessions, demands to meet with the prosecutor or the Human Rights Defender, disagreement with decisions or their suspension related to conditional early release from serving sentences, changes in the type of security zone. Reasons for persons deprived of liberty refusing food have also included issues related to the organization of medical care, such as the discharge of the person deprived of liberty from the "Convicts' Hospital" subdivision of the SNCO or other inpatient facilities, sometimes insufficient conditions of cells or dormitories, failure to provide proper medical assistance, failure to organize examinations and transfer to medical institutions of healthcare bodies, not being relocated to another building, interpersonal conflict relationships, and so on.

Monitoring has identified issues related to the proper management of hunger strikes.

For example, in the "Armavir", "Sevan", "Vardashen", "Nubarashen" and "Artik" penitentiary institutions, persons on hunger strike were held in different buildings - both in medical care units and in disciplinary or quarantine units, which in turn creates difficulties in carrying out proper medical supervision. In these facilities, the disciplinary units are located quite far from where medical services are situated, and medical staff may take considerable time to reach the units after being called by a person deprived of liberty. This could have irreversible consequences in some cases.

Moreover, placing hunger strikers in disciplinary units is not advisable, also considering the requirements of Article 100(6) of the RA Penitentiary Code, which states:

With the consent of the convicted person on hunger strike, they shall be subjected to necessary medical examination, and within 24 hours of the fact of the hunger strike being recorded by the penitentiary institution administration, by decision of the head of the penitentiary institution, shall be transferred to a specially designated cell for this purpose, taking into account the building conditions of the penitentiary institution to the extent possible, except for convicts serving sentences in low-security zones. The conditions of the specially designated cell shall not be worse than the minimum standards set by the internal regulations of the penitentiary institution. For the purposes of this article, a disciplinary cell cannot be considered a specially designated cell.

Regarding the above, it should be emphasized that isolating persons deprived of liberty in disciplinary units without sufficient legal grounds is inadmissible.

On this issue, in paragraph 118 of its 2010 report on the visit to Armenia, the CPT noted that persons deprived of liberty who had declared a hunger strike generally wore special uniforms and were held in a special cell inside or near the disciplinary cell, which was furnished like disciplinary cells. The Committee wishes to emphasize that hunger strikes should be approached more from a therapeutic than a punitive standpoint. In this context, the persons concerned should be accommodated in conditions where their health status can be under the direct supervision of a relevant doctor. Moreover, they should not be held in conditions worse than those of other persons deprived of liberty. The CPT recommends that the Armenian authorities review their policy on managing persons deprived of liberty who have declared a hunger strike in light of these observations²⁴.

Failure to provide medical assistance in a timely and sufficient manner can endanger the health and lives of persons deprived of liberty who have declared a hunger strike.

A study of cases of food refusal in penitentiary institutions revealed that a person deprived of liberty who was assessed by medical staff as needing inpatient treatment was offered a transfer to the "Hospital for the Convicted" penitentiary institution or a medical institution of the health authorities on the condition that they end their hunger strike. This is concerning.

Monitoring has also revealed that the practice of improper daily medical supervision of persons on hunger strike continues.

For example, during a visit to "Nubarashen" penitentiary institution on October 13, 2023, representatives of the Ombudsman found that persons who had declared indefinite hunger strikes on October 2 and 4, 2023 were transferred to an isolated cell, which the medical staff of the Penitentiary

²⁴ See on https://www.gov.am/u_files/file/kron/CPT_arm_final.pdf as of 29.03.2024.

Health Center branch only learned about during their next regular visit on October 10, 2023, and their medical supervision effectively began about a week after the hunger strike was declared.

Regarding this issue, the Ministry of Justice reported that the "Nubarashen" branch of the Penitentiary Health Center was informed verbally, as there is no mandatory requirement for written notification under the legislation.

The Ombudsman emphasizes that the lack of legislative regulations on information exchange between agencies regarding persons refusing food or water cannot in any way justify the improper organization of medical supervision for them.

In another case, a study of the "Register of Admission of Detainees and Convicts in Disciplinary Cells" at "Artik" penitentiary institution revealed that on October 21, 2023, the duty nurse conducted admissions of persons deprived of liberty in disciplinary cells twice - at 13:30 and 22:30, but the register recorded "was asleep" regarding the medical examination of persons deprived of liberty on hunger strike held in the disciplinary unit.

From the above, it becomes clear that due to being asleep, persons deprived of liberty on hunger strike were not subjected to medical examination, which is a violation of the legislative requirement. This is particularly concerning from the perspective of establishing proper medical supervision for persons deprived of liberty who have refused food.

The implementation of improper daily medical supervision of a person on hunger strike by medical staff, as well as the unprofessional maintenance of medical records that do not reflect the objective health status of the person deprived of liberty, are extremely concerning and do not stem from the important principle of ensuring the right to health protection.

Improper provision or delay of medical care to a person during a hunger strike can have irreversible consequences, lead to inhuman treatment, and violate Article 3 of the European Convention.

Regarding the above, it should be noted that Chapter 26 of the Annex to RA Government Decision No. 543-N of April 13, 2023, defines the specifics of conditions for holding detainees and convicts who have refused food intake. *Paragraph 339 of this Annex stipulates that during the period of hunger strike, the detainee or convict on hunger strike is under constant medical supervision. The doctor presents to the detainee or convict on hunger strike, in their native language or another understandable language, the risks of further deterioration of health due to refusal of food or water and the steps that need to be taken to prevent deterioration of the health of the detainee or convict on hunger strike. According to Paragraph 340, until the end of the hunger strike, the doctor determines daily whether the detainee or convict on hunger strike has agreed or refused to receive medical care and services (including in the form of artificial nutrition) in case of clouding or loss of consciousness, as well as falling into a coma, due to refusal of food or water intake, and makes a note about this in their medical chart.*

Medical examination of persons on hunger strike is generally limited to measuring blood pressure and heart rate, as well as monitoring body temperature, blood oxygen saturation, and sometimes weight.

It should be noted that in cases of prolonged hunger strikes and body exhaustion, organizing the weighing process outside the cell may cause additional difficulties for the person.

It is also concerning that the study of medical records of persons on hunger strike has revealed that objective medical examinations of persons on hunger strike are not carried out in all cases. Studies show that the habitus (external appearance), skin and mucous membranes, functioning of the gastrointestinal, genitourinary, nervous systems, body exhaustion, and other criteria describing the health condition have

not been described. Sometimes, the records were limited to the note "objective examination data without peculiarities".

Moreover, in cases of taking permanent medications due to chronic illness, including psychotropic drugs, special medical supervision should be carried out for persons deprived of liberty who have declared hunger and thirst strikes. There should be a professional justification from a doctor for providing any medication, and in cases where permanent medications are not provided by medical staff.

The management of food refusal cases for persons with mental health issues remains relevant.

It is also notable that persons with mental health issues sometimes refuse to take food, which may be a symptom of the illness itself. In such cases, a psychiatric consultation should be arranged immediately, as well as consistent medical supervision to ensure the timely intake of prescribed medications for the patient as needed.

For persons with mental health issues or psychopathological symptoms refusing food and/or water, a psychiatric consultation must be arranged and strict supervision implemented.

Individual complaints addressed to the Ombudsman during 2023 have recorded that sometimes when persons deprived of liberty end their hunger strike, a written application is required for food provision, and if not submitted, food is not provided to them.

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

- ✓ ***Ensure proper detention conditions for persons on hunger strike, excluding the practice of placing them in disciplinary units.***
- ✓ ***Take steps to place persons on hunger strike in accommodations or cells closer to medical services.***
- ✓ ***Ensure proper medical supervision of persons on hunger strike.***
- ✓ ***Establish individual medical supervision, including specialized supervision if necessary, for each person deprived of liberty who has refused food, regularly informing them about the negative consequences to health caused by hunger strikes.***
- ✓ ***Develop legislative regulations for information exchange between agencies regarding persons refusing food or water.***
- ✓ ***Exclude delays in transferring persons who have refused food intake and need inpatient treatment to the "Hospital for the Convicted" penitentiary institution or medical institutions of health authorities, or making ending the hunger strike a precondition for such transfers.***
- ✓ ***Exclude the practice of not providing food to persons deprived of liberty who have ended their hunger strike without a written application.***

4.1.12. Organization of the Functional Assessment Process for Persons Deprived of Liberty

During monitoring visits conducted by the National Preventive Mechanism in 2023 and through the examination of complaints addressed to the Human Rights Defender, issues continue to be recorded regarding the functional assessment process for persons deprived of liberty.

Analysis of complaints addressed to the Human Rights Defender and monitoring results indicates that problems have arisen related to proper administration, referral, or awareness.

According to information received from the Ministry of Justice, in 2023, 229 applications were submitted by persons held in penitentiary institutions to be recognized as persons with disabilities. As a

result of their review, 95 individuals were recognized as having disabilities by the medical-social examination commission. 24 applicants were not recognized as having disabilities, 10 applications were suspended due to lack of appropriate medical documents, and the examination of the remaining applications continued.

The Ministry of Justice also reported that the medical-social examination of persons held in penitentiary institutions in 2023 was carried out in accordance with the provisions set forth in Annex 8 of Government Decision No. 665-N dated May 5, 2011, "On Ensuring the Implementation of the Law on State Pensions."

However, according to the Law on Functional Assessment of Individuals, the process of determining disability for persons applying to the Unified Social Service territorial centers for the first time for the purpose of establishing disability has been carried out since February 1, 2023, through a functional assessment based on the functional assessment referral approved by Order No. 72-N of the Minister of Health dated October 25, 2022.

According to Paragraph 18 of Annex 1 of Government Decision No. 1180-N dated July 28, 2022, "On Approving the Procedure for Functional Assessment of Individuals," the functional assessment referral is generated in the electronic health "Armed" system by the relevant medical organization providing medical care or services. According to Paragraph 23 of Annex 1 of the same decision, medical documents confirming the health problems necessary for the individual's functional assessment and the functional assessment referral are obtained from the electronic health "Armed" system.

For the purpose of referring persons deprived of liberty held in penitentiary institutions for functional assessment, it was necessary to apply to the relevant medical care or service organization, in this case, the corresponding subdivision of the SNCO. However, the SNCO subdivisions were not registered in the electronic health "Armed" system and were unable to enter the necessary documents for the individual's functional assessment into the electronic health "Armed" system.

To ensure the uninterrupted implementation of the medical-social examination process in penitentiary institutions, the receipt of necessary documents and access to the "Armed" system was provided by licensed outpatient medical care and service providers located in close proximity to the penitentiary institutions.

These technical issues have created additional difficulties in the functional assessment process for persons deprived of liberty.

In 2023, difficulties were recorded in the process of entering medical documents confirming the health problem and functional assessment referrals into the "Armed" system for persons deprived of liberty undergoing treatment at the "Hospital for the Convicted" penitentiary institution.

For example, an examination of a complaint addressed to the Defender revealed that a person deprived of liberty held in the "Hospital for the Convicted" penitentiary institution applied to the institution's administration on May 18, 2023, requesting to initiate the functional assessment process. On May 19, 2023, the institution's administration requested medical documents and a referral from the SNCO's Hospital for the Convicted penitentiary institution to submit to the Unified Social Service of the Ministry of Labor and Social Affairs.

In response to the inquiry, on June 6, 2023, the SNCO's Hospital for the Convicted penitentiary institution provided the requested documents, and on the same day, these documents and a motion to subject the detained person to medical-social examination were sent to the Unified Social Service of the

Ministry of Labor and Social Affairs. During this time, the person deprived of liberty was discharged from the "Hospital for the Convicted" penitentiary institution and transferred to the "Nubarashen" penitentiary institution.

On June 26, 2023, a letter from the Unified Social Service of the Ministry of Labor and Social Affairs regarding the detained person was received from the Hospital for the Convicted penitentiary institution, a copy of which was sent to the SNCO's Nubarashen subdivision on June 29, 2023, for the purpose of generating a functional assessment referral in the electronic health Armed system for the detained person.

However, after that, no steps were taken by the SNCO's "Nubarashen" subdivision to generate a functional assessment referral until December 4, the day the person appealed to the Defender. Moreover, during the examination of the complaint, it was revealed that the detained person's functional assessment should be carried out according to the new procedure mentioned above, which further delayed the implementation of the person's functional assessment.

The relevant subdivision of the SNCO generated the mentioned documents in the "Armed" system on February 15, 2024, and only after the Defender's intervention.

Thus, the functional assessment process for the person deprived of liberty began about 10 months after the person's application.

During monitoring visits, issues were recorded both in organizing necessary medical examinations and specialist consultations within the framework of the functional assessment process for persons deprived of liberty, as well as in the process of submitting the functional assessment referral and the aforementioned medical documents to the functional assessment commission.

During monitoring visits, persons deprived of liberty expressed their concern about the improper organization of necessary medical examinations within the framework of the functional assessment process. In particular, they noted that various subdivisions of the SNCO organize medical examinations with significant delays.

During the monitoring visit to "Artik" penitentiary institution, it became clear that in 2023, numerous cases were recorded where additional examinations were prescribed to clarify the diagnosis of persons deprived of liberty within the framework of the functional assessment process, on the basis of which the functional assessment procedure was suspended.

However, during the specified period, the SNCO did not organize the examinations prescribed for the person deprived of liberty, resulting in the termination of the functional assessment procedure due to the expiration of the maximum 60-day suspension period.

As a result of examining individual complaints addressed to the Defender regarding the issue of functional assessment, the aforementioned problem was also recorded in other penitentiary institutions.

For instance, an examination of a complaint addressed to the Human Rights Defender revealed that a convict had applied for a medical-social re-examination due to deterioration of health condition in order to change the established disability group. It is noteworthy that in September 2023, the term of the previous assessment decision also expired.

Based on the penitentiary institution's motion for medical-social re-examination and the accompanying documents, on August 3, 2023, an administrative proceeding was initiated by the Department of Medical-Social Expertise, Functional Assessment of Individuals, and Provision of Assistive Devices of the Unified Social Service. The aforementioned department conducted a visit to the

penitentiary institution, and within the framework of the functional assessment process, the person deprived of liberty was referred for additional medical examinations on September 1, 2023, to clarify the final diagnosis. Based on subparagraph "b" of paragraph 26 of Annex 1 to Government Decision No. 276-N dated March 2, 2006, the administrative proceeding was suspended on September 1, 2023, for up to 60 days.

According to information received from the Ministry of Labor and Social Affairs, the necessary examinations for the functional assessment of the person deprived of liberty were not carried out, and the necessary medical documents were not submitted to the functional assessment commission. As a result, on November 1, 2023, the administrative proceeding for the functional assessment of the person deprived of liberty was terminated, based on the requirements of subparagraph "d" of paragraph 27 of Annex 1 to Government Decision No. 276-N dated March 2, 2006. As a result, it was not possible to determine the degree of functional limitation of the person deprived of liberty.

Although it was subsequently possible to organize the functional assessment of the aforementioned persons with the assistance of the Defender, the Defender notes that due to improper administration, namely the failure to properly organize the activities of the penitentiary institution in one case and the SNCO in another case, the implementation of the functional assessment was prolonged without necessary and sufficient grounds, which is unacceptable from the perspective of ensuring the rights of these persons.

It is extremely concerning that in this situation, it becomes impossible to carry out the functional assessment procedure for the person deprived of liberty.

It should be emphasized that delays in organizing examinations within the framework of the functional assessment process for persons deprived of liberty may lead to a violation of their right to social security.

Issues have also been recorded regarding the entry of medical documents confirming the health problem of persons deprived of liberty and functional assessment referrals into the electronic health "Armed" system.

Thus, within the framework of the functional assessment process, due to the SNCO's lack of access to the "Armed" electronic system, it was forced to provide medical documents of the person deprived of liberty to the licensed outpatient medical care and service provider serving the penitentiary institution for the purpose of entering the referral into the "Armed" electronic system. According to the staff, this was extremely time-consuming, created additional difficulties, and led to delays in the functional assessment process of the individual, as well as case terminations.

During the monitoring visit to "Artik" penitentiary institution, it was recorded that as of the day of the visit, medical documents and the individual's functional assessment referral entered into the "Armed" electronic system by the outpatient medical care and service provider were not accessible to the Unified Social Service due to technical reasons.

The Defender emphasizes that as a result of inaction or improper organization of activities by responsible agencies, persons deprived of liberty are deprived of both the opportunity to be recognized as persons with disabilities and additional rights arising from social status, including the possibility of receiving disability pensions, as well as access to social support programs and services.

Thus, it is necessary to properly organize the functional assessment process for persons deprived of liberty in penitentiary institutions without delays, ensuring sufficient awareness in this regard.

4.1.13. Medical Supervision of Persons Deprived of Liberty in Disciplinary Cells

During monitoring visits and individual complaint reviews in 2023, cases of transferring inmates to disciplinary cells as a form of punishment in penitentiary institutions were examined, along with issues related to the medical supervision of persons held in such cells.

At Sevan Penitentiary, a study of disciplinary measures revealed that, as of the day of the visit, a person deprived of liberty continued to be held in a disciplinary cell despite having serious health issues. In this case, the penitentiary administration was unable to consider reducing or postponing the disciplinary measure due to the absence of a doctor who could provide the necessary medical opinion regarding the inmate's health condition and the potential need to postpone the disciplinary cell transfer. According to the penitentiary administration, they often had to wait for visits from State Non-Commercial Organization (SNCO) specialists to obtain the relevant medical opinion, which could be time-consuming. It should be noted that during this period, the inmate was also deprived of proper professional support.

Paragraph 240 of the Annex approved by the Government of the Republic of Armenia's Decision No. 543-N of April 13, 2023, "On Approving the Internal Regulations of Penitentiary Institutions of the Ministry of Justice of the Republic of Armenia" stipulates that the head of a penitentiary institution has the right to postpone the application of disciplinary cell transfer, reduce the duration of stay in the disciplinary cell, or release a detainee or convict from serving the punishment before the term expires, taking into account the medical opinion regarding the inadmissibility of being in a disciplinary cell due to illness.

In this regard, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has stated that medical staff should pay particular attention to all persons held in solitary confinement. The medical staff should be informed of every such case, visit the person immediately after placement in solitary confinement, and thereafter on a daily basis, as well as provide prompt medical assistance when necessary. Moreover, medical staff should inform the prison administration of all cases where solitary confinement poses a serious threat to the health of the person deprived of liberty²⁵.

Disciplinary cell transfer should not be applied to persons in need of medical treatment and examination. In such cases, the possibility of terminating or postponing the disciplinary measure should be considered, taking into account the impossibility of keeping the person in a disciplinary cell due to their illness. It should also be noted that even the objective absence of a doctor in the penitentiary institution should not hinder the initiation of urgent discussions regarding persons with health issues, such as postponing the application of disciplinary cell transfer, reducing the duration of stay in the disciplinary cell, or releasing the person from serving the punishment before the term expires.

Delaying necessary and proper medical care or providing inadequate medical care and services due to the application of disciplinary measures may have irreversible consequences, lead to inhuman treatment, and violate Article 3 of the European Convention on Human Rights.

The SNCO should take steps to ensure the immediate involvement of appropriate medical specialists in such cases.

²⁵ See the 21st General Report on the CPT's activities on <https://rm.coe.int/1680696a88>, as of 29.03.2024

During the visits, issues were also recorded regarding the implementation of daily medical supervision of persons held in disciplinary cells and the proper completion of their medical records.

For instance, in the relevant registers of Sevan Penitentiary, on the day of and the day before the Human Rights Defender's representatives' visit, medical staff had recorded that "convicts in disciplinary cells do not report complaints" and "the health condition of convicts in disciplinary cells is satisfactory." However, during private conversations with persons held in disciplinary cells, the Human Rights Defender's representatives discovered that they had consistently had health-related complaints since being transferred to the disciplinary cells and had received symptomatic treatment with medications. Moreover, one of them had been provided with an individual sleeping place throughout the day on the medical staff's instructions. A medical examination had been initiated for this person, based on which the application of the disciplinary measure could have been postponed. In fact, the medical staff was well aware of the complaints of the persons deprived of liberty and periodically "recorded" deterioration in their health condition, but the aforementioned register was filled out formally and did not reflect the true picture of the health condition of the persons deprived of liberty.

The non-objective and unprofessional maintenance of medical records by medical staff, as well as formal entries that do not reflect the objective health condition of the person deprived of liberty, are highly concerning and do not adhere to the important principle of ensuring the right to health preservation.

A study of the "Register of Admission of Detainees and Convicts in Disciplinary Cells" at Artik Penitentiary revealed that the representative of the medical staff of the subdivision and the responsible duty officer of the penitentiary institution properly visit persons deprived of liberty held in the disciplinary cell unit every day, which is commendable. Nevertheless, it should be noted that in some cases, proper medical supervision was not carried out for persons held in the disciplinary cell unit. In particular, it was found that in all cases when it was not possible to admit persons deprived of liberty during the duty medical worker's reception in the disciplinary cell unit due to certain circumstances, the latter were not subjected to medical examination at all that day. For example, the study of the aforementioned register recorded that on October 21, 2023, the duty nurse conducted admissions of persons deprived of liberty in disciplinary cells twice, at 13:30 and 22:30, but the register recorded "was asleep" regarding the medical examination of the persons deprived of liberty.

From the above, it becomes clear that due to being asleep, persons deprived of liberty were not subjected to medical examination, which is a violation of the legislative requirement.

During the visit, it was also recorded that there was no separate workspace for medical assistance in the disciplinary cell unit of Artik Penitentiary, and medical care for persons deprived of liberty was organized in the cells. Moreover, during private conversations, persons deprived of liberty reported that medical examinations in the cells were carried out in the presence and under the supervision of penitentiary officers.

The Human Rights Defender has repeatedly addressed the inadmissibility of the practice of conducting medical examinations of persons deprived of liberty in the presence of officers who are not medical staff of places of deprivation of liberty.

Furthermore, complete information about medical interventions in the disciplinary cell unit was recorded in the aforementioned register, which also contained information about the reception by the responsible duty officer, and this register was kept by the duty penitentiary officer of the unit. As a result,

penitentiary officers had access to medical confidential information about persons deprived of liberty, which is unacceptable.

Therefore, it is necessary to:

- ✓ *Mandatorily consider the need to terminate or postpone the application of disciplinary cell transfer for detainees and convicts undergoing treatment until the completion of treatment, in cases where medical interventions are necessary for persons held in disciplinary cell conditions.*
- ✓ *Develop appropriate procedures for organizing proper medical care by medical specialists for persons deprived of liberty transferred to disciplinary cells in case of vacant medical positions in SNCO subdivisions.*
- ✓ *Implement daily medical supervision of persons deprived of liberty in disciplinary cells, and maintain medical records properly, objectively, and professionally.*
- ✓ *Take effective steps to maintain medical confidentiality and conduct training for medical staff on this topic, outlining the boundaries of proper cooperation with penitentiary officers regarding the transfer of medical information.*

4.1.14. Peculiarities of organizing medical care and services for children under three years old and minors held with women deprived of liberty

Ensuring the right to health protection for women deprived of liberty, children held with them, and minors in the penitentiary system is of fundamental importance. The state is obligated to take all possible measures to ensure the physical and mental health and well-being of women and minors deprived of liberty.

In places of detention, women, children held with them, and minors may be vulnerable due to, for example, victimization in places of detention, risk of sexual violence, lack of gender- and age-specific healthcare and care measures, lack of stable contact with close relatives, and other factors.

In this regard, it should be noted that women and minors face difficulties during detention that require keeping their access to necessary medical services, among other needs, in focus.

Issues in this area have been described both in the annual reports on the activities of the Human Rights Defender as the National Preventive Mechanism, as well as in the Human Rights Defender's 2022 ad hoc report "On Ensuring the Rights of Women, Minors and Foreign Citizens Deprived of Liberty in the Penitentiary System."

The issue of staffing the "Abovyan" subdivision of the SNCO with a family doctor remains a concern.

According to information received from the Ministry of Health, the staff of the "Abovyan" subdivision of the SNCO includes a narcologist, gynaecologist, psychiatrist, and dentist. The mid-level medical staff is comprised of 4 shift nurses and one day nurse. It is noteworthy that the mid-level medical staff works in shifts, once every four days, and one nurse serves three areas: the isolation ward and two women's sections.

The medical staff does not include a general practitioner - a therapist or family doctor - which is why therapeutic care is provided by other specialists in the subdivision.

Ensuring therapeutic services in the penitentiary institution by a person with appropriate specialization is of primary importance.

The European Prison Rules stipulate the requirement to include a qualified general practitioner in the medical service department. According to these rules, each penitentiary institution must have access to the services of at least one qualified general practitioner.

It should also be noted that the CPT pays special attention to the specific medical needs of minors deprived of liberty. It is particularly important that the healthcare offered to minors forms part of a multidisciplinary (medical-psychological-social) care program. This implies, among other things, close coordination between the work of the medical service staff (doctors, nurses, psychologists, etc.) and those professionals who have regular contact with persons deprived of liberty (social workers and teachers). The aim should be to ensure that the medical care provided to minors deprived of liberty forms part of a seamless system of support and therapy. It is also desirable that the care program be available in writing to all staff members who may participate in it.

The CPT has also noted that all minors deprived of liberty should be properly examined by a doctor as soon as possible after admission to the penitentiary institution. However, the first point of contact with the medical service for newly admitted minors may be a fully qualified nurse who reports to the doctor²⁶.

In 2023, problems were recorded related to the organization of medical care and services for children under three years old held with women.

It is noteworthy that women and minors deprived of liberty are assigned to a territorial medical institution for the purpose of receiving outpatient medical care and services. Children under three years old kept with their parents in the "Abovyan" penitentiary institution are assigned to the "Mayakovsky Primary Health Care Center" SNCO, where their outpatient medical care is carried out.

It should be emphasized that children under three years old admitted to the "Abovyan" penitentiary institution with women deprived of liberty do not undergo any medical examination.

In this regard, Rule 9 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules), adopted by the UN General Assembly on December 21, 2010, states that if a woman prisoner is accompanied by a child, that child shall also undergo health screening, preferably by a child health specialist, to determine any treatment and medical needs. Suitable health care, at least equivalent to that in the community, shall be provided.

Regarding the admission of minors to places of detention, the CPT has emphasized the need to ensure that all newly admitted minors, as well as minors who have escaped or been transferred to another place, undergo a medical examination upon return to the institution. Regular visits by a paediatrician should also be ensured. The CPT has also stated that a personal medical file should be compiled for each child, containing diagnostic information as well as records of its development and any special examinations. In case of transfer to another institution, this document should be sent to the receiving institution's doctor.

Government Decision No. 204-N of March 1, 2018, "On Establishing the 'Penitentiary Medicine Center' State Non-Commercial Organization" defines in its 2nd point that the subject of activity of the "Penitentiary Medicine Center" State Non-Commercial Organization is the preservation and restoration of health of detained persons and convicts held in penitentiary institutions of the Ministry of Justice of

²⁶ See on <https://rm.coe.int/1680696a73> as of 29.03.2024; paragraph 39.

the Republic of Armenia, and the purpose of its activity is to provide proper medical care and service to detained persons and convicts held in penitentiary institutions of the Ministry of Justice of the Republic of Armenia.

It should be emphasized that there are no corresponding regulations in the legislation regarding the organization of medical care for children under three years old with parents in penitentiary institutions, which in turn creates difficulties in organizing medical care and services for them.

The organization of first aid for minors and young children, the provision of necessary medications (e.g., fever reducers), and the implementation of preventive vaccinations remain extremely concerning.

Despite the fact that the SNCO provides 24-hour medical service in the penitentiary institution, in practice, emergency medical services are called for first aid for young children held with their parents, which can sometimes be time-consuming.

It should be emphasized that medications prescribed by the paediatrician have mainly been provided to children through transfers from relatives, as prescribed by the paediatrician of the "Mayakovsky Primary Health Care Center" SNCO.

The legislation of the Republic of Armenia establishes regulations that women deprived of liberty may keep their children under three years old with them in penitentiary institutions. Therefore, it is the state's positive obligation to properly organize medical care and services for children under three years old living with their parents in penitentiary institutions on general grounds, including through the improvement of legislative regulations.

Thus, in the absence of appropriate legislative regulations, children living with women deprived of liberty are deprived of the opportunity for proper organization of medical care, which leads to a violation of children's right to health protection.

Problems have also been recorded in the process of professional support for the care of children under three years old.

Women often have difficulties in independently organizing the care of newborns and children under three years old. Sometimes, they are forced to follow the advice of other women deprived of liberty or female correctional officers to organize childcare.

Summarizing the above, it is necessary to:

- ✓ ***Establish clear mechanisms in legislation for organizing medical care and services for children living with parents deprived of liberty;***
- ✓ ***Take steps to introduce support mechanisms for proper organization of care for children living with women deprived of liberty and to provide parents with adequate knowledge through training.***

4.1.15. Working Conditions of Medical Personnel

The protection of human rights is a comprehensive process that necessitates guaranteeing the rights of all participants in this process, ensuring dignified treatment for each of them, and establishing relationships that guarantee mutual respect. An integral component of this principled approach is the state of rights of employees and officers of competent bodies whose activities are designed to protect the rights of members of society. This, of course, also applies to the medical staff providing medical care

and services in penitentiary institutions, their decent working conditions and social guarantees, including wages.

According to information received during monitoring visits, after the transfer of medical personnel to the Ministry of Health's jurisdiction, they prefer to work as penitentiary officers, as the latter receive higher salaries and bonuses.

The growing trend of medical staff leaving their jobs on the one hand, and the difficulties associated with filling vacant positions on the other, continue to be concerning.

The issues of adequate and proportionate salaries for medical staff in penitentiary institutions, as well as the creation of flexible incentive mechanisms, require review and systemic changes.

These solutions will have a direct positive impact on filling vacant positions of medical staff in penitentiary institutions, ensuring the right to health of persons deprived of liberty, as well as preventing ill-treatment and corruption risks. Therefore, continuous steps need to be taken in this regard.

During visits to penitentiary institutions in 2023, it was also recorded that adequate working conditions have not been created for medical staff in penitentiary institutions.

In particular, in the absence of food points for employees near penitentiary institutions, officers and medical staff mainly bring ready-made food from home. This issue is more pronounced for employees performing 24-hour shifts.

The problem of transportation accessibility to the penitentiary institution also does not contribute to the involvement of medical staff in the work of the units. Some penitentiary institutions are located quite far from public transport routes, which creates a number of social and other problems and inconveniences for employees.

The working conditions of medical staff in the monitored institutions have also been inadequate. The separate offices allocated for them generally had high levels of humidity, with plaster falling off the walls.

In the "Abovyan" penitentiary institution, due to renovation processes, the medical staff was removed from the administrative building of the institution and placed in one of the adjacent buildings, where the humidity level was high, and the walls were half-demolished and moldy. It should be emphasized that the room's heating was not connected to the general heating system, and in cold weather conditions, it was not possible to maintain the thermal regime of the office using electric heaters. Moreover, the medications and medical supplies allocated to the unit were kept in these conditions, which is unacceptable. Notably, due to inadequate conditions, the medications were placed in boxes on the bed in the said room, away from damp walls and floors.

In the residential area of the "Artik" penitentiary institution, particularly in the units, there were no separate offices for organizing medical care and service work, and medical care for persons deprived of liberty was organized in cells or dormitories in the presence of other persons deprived of liberty.

This is not only problematic and unacceptable from the perspective of maintaining medical confidentiality but also from the perspective of ensuring the safety of medical staff. Sometimes, medical care can be prolonged, for example, in the case of intravenous drip injections, as a result of which the medical staff is forced to wait in the cell or dormitory or leave the patient under the supervision of cellmates.

In the sanitary facility of the "Vardashen" unit, the toilet bowl was damaged and without a seat, and the medical staff was not provided with the opportunity to keep personal items, including outerwear, bags, etc., in proper condition.

In the offices intended for medical services in the "Sevan" unit, there was no access to running water.

The inadequate working conditions for medical staff do not contribute to the effective and timely implementation of medical care and services, which is concerning.

Another issue is the overloaded work of mid-level medical staff. This is particularly problematic from the perspective of organizing professional and objective medical care and services.

In order to ensure proper and professional medical support for persons deprived of liberty, it is necessary to periodically organize continuous training courses for all medical staff.

Training for medical staff is also important on both professional topics and those related to legislative and organizational activities in the field.

In this regard, the Ministry of Health of the Republic of Armenia has reported that in 2023, professional and educational training was carried out for employees of all subdivisions of the SNCO, including with the support of the Council of Europe Yerevan Office. A course on maintaining sanitary and epidemiological norms was also organized by the SNCO epidemiologist.

Summarizing the above, it should be emphasized that the training is mainly non-periodic, which does not allow for ensuring the continuous development of doctors in the field.

A systematic approach is needed for proper and periodic professional training of medical staff in penitentiary institutions.

The topics chosen for training should contribute to both re-equipping with professional knowledge and improving cooperation due to the specifics of work in penitentiary institutions, studying the legislative framework, and developing skills for working with vulnerable groups.

Therefore, it is necessary to:

- ✓ ***Improve the system of social guarantees for medical staff representatives in the penitentiary system, including salaries;***
- ✓ ***Ensure adequate working conditions for medical staff in the units, including offices with sufficient conditions in the penitentiary institution's units, proper conditions for rest and food intake, as well as transport accessibility;***
- ✓ ***Periodically organize professional training courses for medical staff, including medical confidentiality, medical ethics, proper recording of bodily injuries, inter-agency cooperation, teamwork, study of the relevant legislative framework, peculiarities of working with vulnerable groups, and more.***

4.2. Overcrowding and unequal distribution

Monitoring visits carried out by the Human Rights Defender within the framework of the status of the national preventive mechanism (NPM) and individual complaints submitted to the Defender prove that there are still problems of overcrowding and uneven distribution of cells or accommodation in penitentiary institutions.

Thus, during the monitoring visit to the "Vardashen" penitentiary institution, the surfaces of the studied cells were from 11.6 square meters to 25.5 square meters, in which from 2 to 5 people were kept. During the visit, problems of overcrowding were recorded in the cells of the "Mekusaran" (isolation) building. In particular, 4 persons deprived of their liberty were kept in two cells with a living area of 12 square meters and 14.3 square meters, and 3 persons were kept in a cell with a living area of 11 square meters.

According to Part 1 of Article 79 of the RA Penitentiary Code, the amount of living space allocated to one convict in a penitentiary cannot be less than four square meters.

Article 20 of the RA Law "On Keeping Arrested and Detained Persons" provides that the size of the living space allocated to detained persons cannot be less than four square meters for each person.

During the monitoring visits, problems related to the overcrowding of the punishment cells were also recorded. Thus, in some of the punishment cells of the "Artik" penitentiary institution, which were intended for the detention of two persons, the living space of minimum 4 square meters provided by the law for one person deprived of liberty was not provided (see section 4.2 of the report).

The mentioned cells had an area of 6 to 7 square meters. At the time of the visit, two people who were admitted to the penitentiary institution a few days ago and were still in quarantine were kept in one of the cells of the penitentiary institution building.

As a result, the requirements of Article 20 of the RA Law "On Keeping Arrested and Detained Persons" were not met, according to which the size of the living space allocated to arrested and detained persons cannot be less than four square meters for each person.

In relation to this issue, according to CPT standards, a prison cell must have at least 6 square meters of living space per person, and 4 square meters of living space for each prisoner in cells for more than one prisoner. The distance between the walls of the cell should be at least 2 m, and the height between the floor and the ceiling of the cell should be 2.5 m. It should be emphasized that the area of the single cell of the "Artik" penitentiary institution was 6.5 square meters (including a 1 square meter bathroom), but the distance between the opposite walls was about 1.3 m, which is less than the internationally defined minimum requirement.

In the 2015 report on the visit to Armenia, the CPT noted that the prison cells in the "Yerevan-Kentron" penitentiary institution were small, a little more than 6 square meters in size and extremely narrow (that is, the distance between the walls was less than 2 m). and the access to natural light was limited, the outside view was absent.

In the 2019 report on the visit to Armenia, the CPT, confirming its previous position on the need to bring the conditions of prison cells in line with international legal standards, noted that the cells in the "Yerevan-Kentron" penitentiary institution have not undergone the necessary changes, in particular, the walls of the cells continue to be too narrow (the distance between the walls is less than 2 m) and the windows are too narrow.

Thus, the requirements of the legislation regarding the size of the minimum living space allocated to persons deprived of their liberty are not ensured.

In this regard, the CPT recorded in its second general report that the need to keep a larger number of persons than planned in the place of deprivation of liberty has an extremely bad impact on all the services provided there and the measures implemented, significantly reduces the general level of quality of life. Moreover, the degree of overcrowding of the place of deprivation of liberty or any part thereof may itself be inhuman or degrading.

The case law of the European Court of Human Rights consistently expresses the principled legal position according to which keeping persons deprived of their liberty in overcrowded conditions can itself be qualified as inhuman or degrading treatment, even if the competent authorities did not pursue such a goal.

It should be noted that the violation of Article 3 of the European Convention on Human Rights by the European Court of Human Rights in relation to the lack of minimum personal space was also recorded in a number of judgements regarding Armenia.

As a result of the monitoring visit to the "Sevan" penitentiary institution, it was recorded that the conditions of detention of persons kept in the strict conditions of the low security zone of the penitentiary and the soft conditions of the medium security zone of the penitentiary did not differ from each other in any way, and the persons deprived of their liberty were actually kept mixed in the shelters without separation. At the time of the visit, 8 to 22 convicts were kept in the accommodation of 61.7 to 99 square meters of the penitentiary institution.

It should be noted that in accordance with Part 3 of Article 95 and Part 2 of Article 96 of the RA Penitentiary Code, under the strict conditions of the low security zone and the mild conditions of the medium security zone, the convict is kept in a residential accommodation designed for up to eight convicts, depending on the visit at the moment, more than 8 convicts are kept in most of the shelters.

Placing large numbers of convicts in residences leads to both domestic and coexistence problems. The mentioned issue was also raised by the persons deprived of their liberty during private interviews, noting that, for example, their relatives, according to the customs accepted in the penitentiary, are forced to bring the assignments in such a way that their contents satisfy all the persons kept in the shelter.

Placing a large number of inmates in accommodation not only violates the requirements of the legislation, but also creates difficulties in the formation of positive interpersonal behavior, hindering the fight against the criminal subculture in penitentiary institutions.

The problems related to the transfer of persons deprived of their liberty to a low-security zone continue to be topical, which were constantly addressed in the previous year's annual reports of the Human Rights Defender as a National Preventive Mechanism.

The analysis of the statistical data provided by the Ministry of Justice of the Republic of Armenia shows that as of December 31, 2023, only 97 of the 1154 persons sentenced to imprisonment in the conditions of the 309 sets of low security zones in penitentiary institutions were placed there, i.e. 8.4% of the total number of convicts. The ratio between the number of reported and actual detainees continues to indicate the lack of a flexible mechanism for changing the type of security zone.

In this regard, part 2 of Article 68 of the Penitentiary Code of the Republic of Armenia stipulates that a convict who exhibits positive behavior may be transferred to a security zone with a lower level of security in order to continue serving his sentence, in accordance with the procedure established by

Articles 64 and 69 of this Code and with conditions. According to the 4th part of the same article, the type of security zone is changed by the Placement Commission, taking into account the behavior of the convict, the appropriateness of the level of security (...). At the same time, according to Part 1 of Article 69 of the RA Penitentiary Code, the type of security zone for the execution of the sentence can be changed to a lower level of security, based on the conclusion of the Resocialization Evaluation Commission regarding the positive behavior of a person sentenced to imprisonment or life imprisonment.

It is clear from the wording of the mentioned provisions that to change the type of security zone, it is not the crime committed by the person deprived of liberty that is taken into account, but the behavior of the person, the appropriateness of the degree of isolation, the relevant rules for keeping convicts separated from each other, and other requirements defined by the Code.

It is necessary to provide an urgent solution to the issues of overcrowding in the cells of penitentiary institutions and the implementation of a flexible structure for changing the regimes of persons deprived of liberty.

Summarizing the foregoing, it is necessary to:

- ✓ ***to take continuous steps to provide persons deprived of their liberty with personal space in line with national and international standards, providing at least four square meters of living space for every convict and detainee kept in penitentiary institutions under conditions compatible with human dignity;***
- ✓ ***To reduce the level of occupancy in the cells of the "Isolation" part of the "Vardashen" penitentiary institution, providing individual living space for each person deprived of their liberty;***
- ✓ ***to carry out the placement of convicts in penal institutions in accordance with the requirements regarding security zones defined by the legislation;***
- ✓ ***to take steps to introduce a flexible and international standards-compliant structure of gradual change in the type of security zone in penitentiary institutions.***

4.3. Detention conditions of penitentiary institutions

During the monitoring visits carried out in 2023, problems related to the conditions of detention of persons deprived of liberty in penitentiary institutions were recorded.

Thus, in the "Isolation" building of the "Vardashen" penitentiary institution, including the cells and corridors, the need for repair was recorded, in particular, the walls were damp, in some areas the plaster of the walls and ceiling was falling off, the floor was old.

It should be noted that renovation works were carried out on the second floor of the "Isolation" part of the institution and in the separate part for keeping convicts, but they did not cover the mentioned parts completely. As a result of the works, part of the second floor of the "Isolation" building was renovated, including a number of cells and one of the two bathrooms on that floor. It is noteworthy that as a result of the renovation work, one of the cells of the "Isolation" building, as well as one of the

residences of the separate building for keeping convicts, was equipped with a toilet adapted for people with mobility difficulties, which is welcome.

In the separate building for keeping convicts, the areas of the second floor where there were stairs were equipped with ramps. At the same time, the necessary conditions for climbing to the second floor of the building were missing. the building was not equipped with an elevator or other facilities for people with mobility difficulties.

Thus, the conditions of most of the cells and shelters of the above-mentioned buildings of the "Vardashen" penitentiary institution were insufficient, so there is a need to include them in the renovation projects.

During the monitoring visit, the conditions of the low security zone of the "Vardashen" penitentiary were also studied by the National Preventive Mechanism. Convicts were kept there in rooms intended for 2 or 3 people, the conditions of which were satisfactory. The rooms were furnished with beds, tables and chairs, wardrobes, there was also a TV. Some rooms needed cosmetic renovation.

It is worth noting that only one of the rooms had an attached bathroom, and the persons deprived of their liberty kept in the remaining rooms used the Asian-type bathroom located in the yard.

During the visit of the representatives of the National Preventive Mechanism to the "Sevan" penitentiary institution, positive changes were recorded, in particular, improvement and repair works were carried out, the sewage of the institution was completely changed.

At the time of the visit, the "Sevan" penitentiary institution was equipped with gas-powered central heating, solar batteries, and a gasoline generator.

The penitentiary has 4 residential buildings, of which 3 were in use at the time of the visit. The structure of the buildings was similar, they were one or two stories, and each floor had two or three dwellings. The walls and ceiling of the corridors and stairwells of the penitentiary buildings, as well as some of the accommodation, were damp, in some areas, the plaster was falling apart, despite the fact that the renovation work had been completed not long ago.

Bathrooms and toilets were provided in the apartments of the operated buildings, and there were also washing machines, kitchen facilities, refrigerators, heaters, microwave ovens, electric kettles, dishes, etc.

There were bunk beds in the apartment buildings, but mostly the upper part of the beds was used to store personal belongings. The dwellings were partially renovated, the interior decorations of their individual parts were different. each residential area was decorated and furnished in its own way. There were televisions, DVD players, music centers, sofas, armchairs, and other opportunities for recreation in the accommodations.

It is also necessary to emphasize that the separate building for the "Sevan" SNCO was located on the second floor of the building, where people with mobility difficulties were also kept. The entrance to the mentioned building did not have a ramp, and it was possible to go up to the unit only by a staircase, which is problematic.



Sufficient living conditions

The conditions in the cells of the "Artik" penitentiary institution were generally satisfactory, but there were also cells in which the level of humidity was high, their walls were damp, in some areas the plaster of the walls and ceiling had fallen off, and the linoleum or wooden floors were worn out. It should be noted that toilet seats were mostly absent in the bathrooms of the studied cells. Bathrooms with insufficient conditions were also recorded, where there was a need to carry out cleaning and repair works.

It should be emphasized that representatives of the Defender also visited the "Abovyan" penitentiary institution. During the visit, the Defender's representatives recorded that 3 minor detainees were kept in one of the cells of the quarantine department, where 2 single beds were placed, and the 3rd bed was filled by the institution's administration and placed in the middle of the mentioned two beds at night. As a result of the above, 3 minor detainees had to sleep on beds joined together. Furthermore, the 3rd bed filled by the administration during the day was placed on one of the beds to provide enough space in the room.

It should be emphasized that, first of all, the mentioned is unacceptable from the point of view of not providing decent conditions for a person deprived of liberty, secondly, the surface of the living space intended for each person deprived of liberty was not kept in the penitentiary, and also the persons were deprived of the opportunity of proper rest during the day. Thus, it is necessary to take steps to ensure proper storage conditions in all cells and bathrooms of the penitentiary.

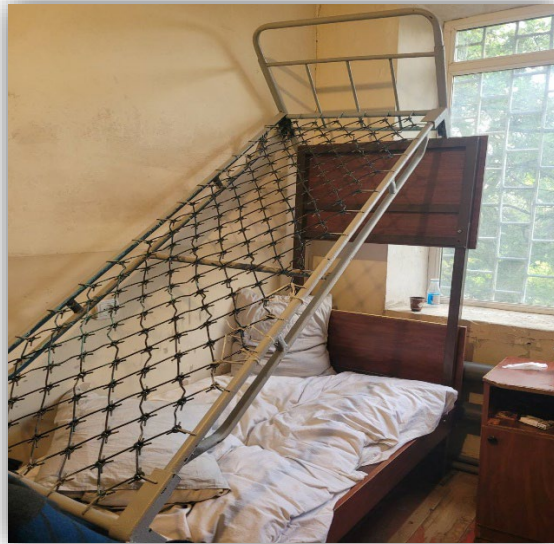


Sufficient living conditions

During 2023, problems were also recorded in connection with the heating systems of penitentiary institutions and ensuring the thermal regime in cells and shelters.

Thus, during the visit of the Defender's representatives to the "Armavir" penitentiary institution in relation to the received complaints and alarms, information was received that a new heating system was introduced in the penitentiary, as a result of which the air heated in the boiler house was transported to the buildings through the ventilation system.

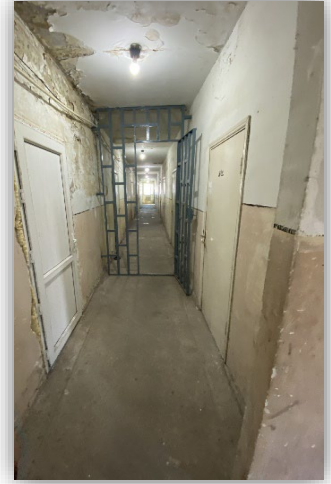
Due to the lack of ventilation system in the quarantine, punishment cell, medical, as well as administrative buildings of the penitentiary, heating was organized using heating batteries powered from the same boiler house. In addition, in the case of the operation of the centralized heating system, it was not possible to provide a sufficient level of thermal regime in the quarantine, punishment cell, medical, as well as administrative buildings with the help of heating batteries in the case of providing an average temperature in the residential area of the penitentiary. Therefore, the administration of the penitentiary was forced to increase the heating temperature of the boiler room in order to ensure the necessary temperature in the quarantine, punishment cell, medical and administrative buildings, as a result of which the temperature in the residential area increased and caused complaints among the persons deprived of their liberty.



Detention conditions

According to the received information, the fans installed in the cells and shelters, along with heating the cell, dried the air, as a result of which persons deprived of their liberty developed suffocation or difficulty breathing. Taking into account that the shelters and cells are furnished with double beds, the mentioned problem is even more pronounced for the persons deprived of liberty sleeping on the second floor of the bed. The latter mentioned that they can't sleep at night at all, because they have difficulty breathing and a feeling of dryness in the throat.

During the visit, it became clear that the penitentiary also housed persons with health problems, in particular, heart-pulmonary insufficiency, cardiovascular and respiratory system problems. The latter reported during a private interview that the thermal regime and dry air in the shelters and cells had a negative impact on their health and often led to suffocation, as well as disease exacerbations. During the visit, cases were recorded that due to the raised issue, persons deprived of their liberty had to ask the representatives of the administration of the penitentiary to turn off the ventilation system in their cells, as a result of which some cells and buildings were not heated at all for several days. In connection with the mentioned, the Ministry of Justice announced that in connection with the uneven heating problem reported by the Defender's representatives in the "Armavir" penitentiary institution, steps are being taken to separate the new heating system of the "Armavir" penitentiary institution from the previous system, so that it is possible to heat each area with a separate boiler, which will allow solve the mentioned problem. During 2023, the HRD staff received many complaints and alarms regarding the closing of the food transfer doors (food door) of cells and accommodation in penitentiary institutions. According to the complainants, in the past, the food delivery door was always kept open, as a result of which it was possible to ventilate the room and adjust the temperature regime in the room, so there was no need to open the windows. Persons deprived of their liberty have expressed their concern about the lack of legal grounds for closing the door to the food transfer. Moreover, due to the lack of relevant legal regulations, disagreements arose in the penitentiary between the representatives of the administration of the penitentiary and the persons deprived of their liberty.



Detention conditions

In particular, in individual cases, persons deprived of their liberty requested to present the legal grounds for closing the food transfer door, which were not presented by the administration. As a result of this, the persons deprived of their liberty prevented the representatives of the administration of the penitentiary from closing the doors of the food transfer, as a result of which a dispute arose between the representatives of the administration of the penitentiary and the persons deprived of their liberty ("Armavir" and "Vanadzor" penitentiary institutions).

In connection with the above, it is necessary to clearly provide for the status of the food transfer door (open or closed, if necessary, grounds and procedure for opening it) facilities of the penal institution according to the decision N. 543 of the RA government on "RA MoJ penitentiary institutions internal regulations" in April 13, 2023 as well as properly inform the persons deprived of their liberty about the

said. In the "Artik" penitentiary institution, problems related to artificial lighting were recorded, in particular, artificial lighting was absent in the bathrooms, corridors, gymnasium and other common areas of the buildings at the time of the monitoring visit. According to the received information, during the last two years, the institution did not receive incandescent lamps at all, and the lamps had to be purchased with the employees' own funds. Problems with artificial lighting were also recorded in the "Armavir" penitentiary institution, in particular, after the heating system was connected, power fluctuations occurred in the penitentiary institution due to the load on the electric wires, as a result of which the cells and accommodation were cut off from time to time.

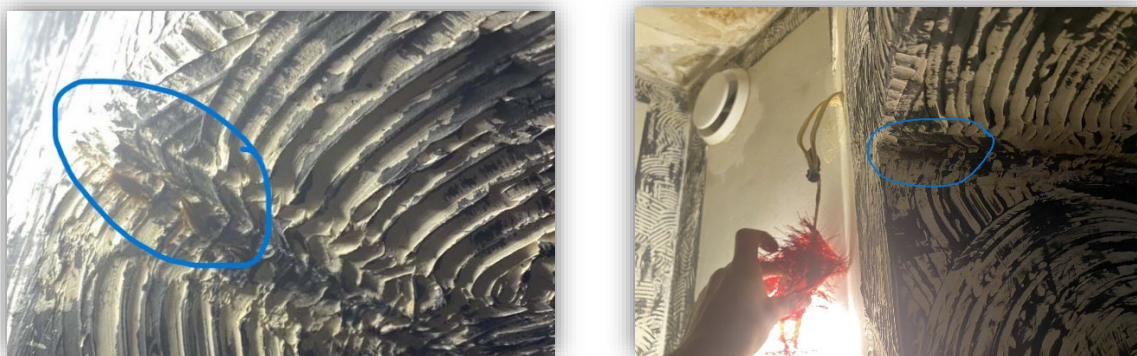
The lack of artificial lighting in certain parts of the penitentiary institution is also problematic from the point of view of security and needs an urgent solution. The Ministry of Justice of the Republic of Armenia noted that as a result of the purchase procedure announced by the Penitentiary Service, 900 energy-saving lamps were purchased, which will be given to the "Artik" penitentiary institution after they are delivered within the contract period. During the visit, the administration of the "Artik" penitentiary institution also raised issues related to the institution's electricity supply. According to the administration, the lack of an alternative source of electricity (supplementary power supply line, gasoline generator, etc.) is extremely problematic in case of emergency power outages, which also carries security risks. From the point of view of ensuring security, the lack of cameras and a video recording system in the buildings of the penal institution is also problematic. The presence of cameras and video recording systems is also important to prevent torture and ill-treatment in prisons. During the visits, the representatives of the HRD staff also recorded problems related to the proper organization of garbage removal and natural ventilation in the cells.

Thus, in the "Armavir" penitentiary institution, it was recorded that it is not possible to provide natural ventilation in the cells through the windows, due to the stench caused by the garbage bins installed near the buildings of the residential area of the institution and the garbage accumulated in the surroundings, as well as the sewage, due to the observation wells installed very close to the windows of the cells and shelters. In the residential area of the "Armavir" penitentiary institution, large accumulations of garbage were recorded in the area intended for garbage collection.

According to the received information, garbage collection is carried out every 15-20 days. Moreover, during the visit, it became clear that the sewer manholes in the penitentiary institution were located in the residential area, right next to the windows of the cells and residences, as a result of which there was a stench in the cells. According to the persons deprived of their liberty, the problem was more pronounced during hot weather conditions. Under these conditions, persons deprived of their liberty had to keep the windows of their cells and shelters closed. According to the persons deprived of liberty kept in the penitentiary institution and representatives of the administration, the number of rodents in the residential area of the penitentiary has increased dramatically due to the mentioned circumstances. This was also evidenced by the pits visible near the garbage cans and sewer manholes, which highlight the tracks of rats. According to the received information, the garbage collection in the "Armavir" penitentiary institution was carried out by the budget institution "Echmiadzin Housing and Communal Department", which in December-January carried out the garbage collection improperly and intermittently, as a result of which accumulations of domestic garbage were formed. Moreover, it should be noted that in order to facilitate the transportation of garbage by garbage collection vehicles, the garbage bins were not placed in the penitentiary institution in the places where they were supposed to be placed in order to maintain

sanitary and hygienic norms. Moreover, even in such a case, the garbage cans were not equipped with lids, as a result of which the garbage spread in the area adjacent to the residential area during the wind. The mentioned is extremely concerning both from the perspectives of view of ensuring natural ventilation in the cells, as well as from the point of view of preserving the health of persons deprived of their liberty. During the visit to the "Armavir" penitentiary institution, a large number and various insects were recorded in the cells, on the floors, walls and ceiling of the corridors and offices of the buildings, on the doors: cockroaches, blackbirds, etc. According to the received information, woodlouse are also found in the cells. Moreover, the folds of bedding, mattresses and pillows were filled with insects, as a result of which persons deprived of their liberty were regularly bitten.

Although the Ministry of Justice reported that 25 new garbage cans (with lids) were added to the "Armavir" penitentiary institution, disinfection and disinfection works were carried out in the territory of the institution, and the accumulated garbage was removed, it is necessary to carry out constant monitoring of garbage collection in penitentiary institutions in order to exclude such unsanitary situations. and related to the proper organization of euthanization and dissection operations. In the context of the above, it is welcome that the Penitentiary Service has announced that the frequency of euthanization and dissection in the residential areas of the penitentiary institution has been increased from 2 times a month according to the relevant contract signed with the legal entity.



Detention conditions

During the private interviews held in the "Artik" penitentiary institution within the framework of monitoring, the persons deprived of their liberty expressed their dissatisfaction with the drinking water from the faucets of the institution's cells, noting that sand often comes from the faucets together with the water, and in some cases, insects as well. Persons deprived of their liberties informed that in order to solve the problem to some extent, homemade filters were attached to the taps, but the problem of drinking water of proper quality remains relevant. Problems related to the quality of drinking water were also recorded in "Ar Mavir" penitentiary institution. In particular, persons deprived of their liberty reported that the drinking water in the penitentiary is not suitable for drinking and food due to contamination. According to the received information, persons deprived of their liberty are forced to ask their relatives to bring water in containers to the penitentiary institution for drinking and food. Moreover, persons deprived of their liberty kept in the penitentiary institution, who have no social ties or relatives, were forced to use the drinking water provided by the orders of other persons deprived of their liberty, and in extreme cases they had to drink the water (only after boiling). According to the received information, in

the case of drinking water of the penitentiary institution, a number of problems related to the gastrointestinal system arose in the persons deprived of their liberty, that often along with the water comes sand from the taps and in some cases also insects. Deprived persons informed that in order to solve the problem to some extent, homemade filters were attached to the taps, but the problem of drinking water of proper quality remains relevant. Problems related to the quality of drinking water were also recorded in "Armavir" penitentiary institution. In particular, persons deprived of their liberty reported that the drinking water in the penitentiary institution is not suitable for drinking and food due to contamination. According to the received information, persons deprived of their liberty are forced to ask their relatives to bring water in containers to the penitentiary institution for drinking and food. Moreover, persons deprived of their liberty kept in the penitentiary, who have no social ties or relatives, had to use the drinking water provided by the orders of other persons deprived of their liberty, and in extreme cases they had to drink the water (only after boiling). According to the received information, a number of problems related to the gastrointestinal system have arisen among persons deprived of their liberty when drinking water from the penitentiary institution that often along with the water comes sand from the taps and in some cases also insects. Persons deprived from liberty informed that in order to solve the problem to some extent, homemade filters were attached to the taps, but the problem of drinking water of proper quality remains relevant. Problems related to the quality of drinking water were also recorded in "Armavir" penitentiary institution. In particular, persons deprived of their liberty reported that the drinking water in the penitentiary institution is not suitable for drinking and food due to contamination. According to the received information, persons deprived of their liberty are forced to ask their relatives to bring water in containers to the penitentiary institution for drinking and food. Moreover, persons deprived of their liberty kept in the penitentiary institution, who have no social ties or relatives, had to use the drinking water provided by the orders of other persons deprived of their liberty, and in extreme cases they had to drink the water (only after boiling). According to the received information, a number of problems related to the gastrointestinal system have arisen among persons deprived of their liberty when drinking water from the penitentiary institution.

According to the persons deprived of their liberty, the problem is even more urgent due to the limited amount of liquid transferred by handouts. Detainees detained in the "Vardashen" penitentiary institution also expressed their displeasure with the institution's water cuts, noting that they are periodic in nature, and unsanitary conditions are often created in the cells. The problem of frequent water cuts was also raised by penitentiary officers. It should be noted that the water supply to the facility was suspended throughout the monitoring visit. Regular water supply cuts are also problematic from the point of view of providing a fire-fighting environment. The problem was also recorded in the "Armavir" penitentiary institution, where the water supply was turned on three times during the day for one hour each. In connection with the issue, the Ministry of Justice stated that the water supply of "Armavir" penitentiary institution is provided by "Veolia Water" CJSC, from the water supply network of Etchmiadzin city, but taking into account the location, the circumstance of consumption by incarcerated persons, especially uneconomical use, as a result of which there is always an overspending of the daily rations set for each imprisoned person (on some days it exceeds the ration several times), and the volumes of water received cannot fully satisfy the actual volumes of consumption, therefore, water is allocated on a schedule and it is not possible to provide round-the-clock water supply. The Ministry of Justice reported that at the request of the Penitentiary Service, in April 2023, "Veolia Water" CJSC carried out

sampling and laboratory examination of the quality of water supplied to several penitentiary institutions, including "Artik" and "Armavir" penitentiary institutions. The conducted research showed that the taken drinking water samples correspond to the Minister of Health's "Drinking water: Hygienic requirements for water quality of centralized water supply systems. Quality control system" N 2-III-A2-1 sanitary norms and rules. During the monitoring visits, it was also noted that a fire fighting system (fire extinguishers) was implemented in "Vardashen" and "Sevan" penitentiary institutions, which is welcome.

Considering the above, it is necessary to:

- ✓ *carry out renovation works in penitentiary institutions, providing sufficient living conditions for persons deprived of their liberties, including an adapted environment for persons with mobility difficulties;*
- ✓ *exclude the presence of beds connected to each other in the cells of juveniles deprived of their liberty in the "Abovyan" penitentiary institution, ensuring decent detention conditions for persons deprived of their liberty;*
- ✓ *According to the RA Government's Decision No. 543-N of April 13, 2023 "On Approving the Internal Regulation of the Penitentiary Institutions of the Ministry of Justice of the Republic of Armenia", clearly provide for the status of the doors of the cells and accommodation facilities of the penitentiary institution (whether it is open or closed, the grounds and procedure for opening it)) and properly inform the persons deprived of their liberty about it;*
- ✓ *provide artificial lighting in the corridors, bathrooms and other common areas of the "Artik" penitentiary institution;*
- ✓ *take steps to provide penitentiary institutions with an alternative source of electricity;*
- ✓ *properly organize garbage collection in the penitentiary institution, excluding the accumulation of garbage in the area adjacent to the dormitory of the penitentiary institution;*
- ✓ *properly organize disinfection and disinfection works in order to exclude the presence of rodents and insects in the residential area of penitentiary institutions.*

4.4. Conditions of cells or accommodation for persons deprived of their liberty who are pregnant, nursing mothers or children under three years of age

In the "Abovyan" Penitentiary Institution, the issue of the lack of specially designed cells or accommodation for detainees and convicts who are pregnant or have children under three years old, as well as the lack of conditions appropriate to their characteristics, has been continuously raised in the annual reports of the Human Rights Defender as a National Preventive Mechanism. In particular, it was pointed out that the "Abovyan" penitentiary institution does not have a bathroom and toilet equipped for child care, a playground with a separate playground, etc.

In response to the HRD's inquiry regarding the conditions of detention of pregnant and incarcerated persons with children under the age of three in the "Abovyan" penitentiary institution,

information was received from the RA Ministry of Justice that during 2023, 2 rooms with special conditions were built for them.

It should be noted that pregnant women with children up to three years of age are kept in these rooms, while convicts with the same status continue to be kept in a separate room in the women's section, where there was no suitable environment: hot water, a bathroom, as well as a bathroom for a child to organize the bath. It is noteworthy that during one of the visits to the "Abovyan" penitentiary institution, it was recorded that the bath of the child kept by the convict was organized in a separate bathroom of the common bathroom, which is concerning. It is also worrisome that due to the absence of a bathroom and toilet in the said room, the convict can use the common bathroom and toilet of the women's section only if he leaves the child in the care of other convicts.

According to the provided information, during 2023, 4 women with children under the age of three, as well as 4 pregnant women, were kept in the "Abovyan" penitentiary institution.

According to the Ministry of Justice, minor children in the "Abovyan" penitentiary institution are provided with the appropriate contract signed with the supplier organization according to the RA Government's Decision No. 815 of May 31, 2007 "Orphanage, Child Care and Protection Boarding Institution (regardless of its organizational and legal status) on establishing the minimum standards of care and service for a child being cared for, as well as studying in a special public educational institution" according to the requirements, and the menus are drawn up according to the requirements of the mentioned decision.

It should be noted that during 2023, the HRD's staff also received an individual complaints regarding the issues related to the conditions of detention of pregnant women. In particular, the pregnant woman who was deprived of her liberty reported that the administration of the penitentiary institution does not take proper measures to ensure sufficient conditions for her, and she is kept in a cell with a high level of humidity, does not receive food with a proper quality, and the person kept in the neighboring cell regularly makes noise and disrupts her rest.

The HRD emphasizes that the solution of the problem is hindered by the shortcomings of the legislative regulation. Thus, points 52-64 and 222 of the annex to the RA Government's decision N 543-N of April 13, 2023, although they define some of the conditions for the detention of persons and convicts who are pregnant or have a child under three years of age or are under-age detainees in penitentiary institutions characteristics, however, they do not sufficiently reflect the possibility of having an environment suitable for the needs of the above-mentioned group of people.

The said legal regulations also stipulate that detained persons who are pregnant or have a child under the age of three are housed in a penitentiary facility in such a way as to minimize contact with other detainees, which is practically ensured by keeping the person alone in a cell.

It is of key importance to keep detained persons and convicts in separate conditions who are pregnant or have children under the age of three. Therefore, it is necessary to provide special conditions of detention adequate to the needs of the latter in the "Abovyan" penitentiary institution in order to create an environment conducive to the physical and mental healthy development of the child.

It should also be noted that part 1 of Article 90 of the RA Penitentiary Code stipulates that a children's home with proper conditions for children's residence and development is established in a penitentiary institution if necessary. The convict can place her child under three years of age in the children's home of the penitentiary and communicate with him during his off hours without restriction.

However, during 2023, there was no children's home in the "Abovyan" penitentiary institution.

It should be emphasized that the issues of detention and living conditions of women deprived of their liberty were addressed in more detail in the report "Reproductive health and reproductive rights of women deprived of their liberty in the Republic of Armenia".

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

- ✓ ***separate and properly furnish suitable accommodation for convicts who are pregnant and have children under three years of age;***
- ✓ ***to adapt the bathrooms and dormitories of the designated cells and dormitories to the special needs of pregnant women and children under the age of three, that is, to provide them with hot water, a bathroom equipped with a toilet, a shower room and other basic necessities;***
- ✓ ***to provide a separate yard with greenery and a playground for children up to three years of age;***
- ✓ ***plan games and accessories necessary for children's development, as well as programs;***
- ✓ ***develop and implement support structures for parents held in penitentiary institutions to educate and support them in the parenting process; ■ to review the legal regulations in order to create an environment conducive to the physical and mental healthy development of pregnant women and children under the age of three while in prison;***
- ✓ ***discuss the need to create a children's home in order to ensure proper living and development conditions for children in "Abovyan" Penitentiary institution.***

4.5. Problems related to keeping incarcerated non-smokers in the same cell (accommodation) with smokers

One of the issues raised by the Human Rights Defender for years is the issue of keeping non-smokers deprived of their liberty in the same cell (accommodation) with smokers, which still remains unresolved.

In this regard, during the private conversations held during the monitoring visits made in recent years and with the complaints addressed to the Defender, a number of non-smokers deprived of their liberty reported that the administration of the institution did not take into account the fact that they were not smokers when allocating persons deprived of their liberty to cells, and they had to be kept as smokers in the same cell (accommodation) with.

As a result, the harmful effects of second-hand smoke (or second-hand smoke in other words) harm the health of non-smokers deprived of their liberty and sometimes create a situation where the rules of coexistence are violated. Such conditions also cause conflict situations between persons deprived of their liberty.

The European Court of Human Rights also expressed its legal position regarding the mentioned issue. Thus, in *Elefteriadis v. Romania*, the applicant, who suffered from chronic lung disease, was held for nearly 10 months in the same cell with two other persons deprived of their liberty who, unlike him, were smokers. At the same time, the applicant participated in a number of court sessions and was kept in the same cells as smokers. In addition, according to the applicant, he was exposed to the negative effects of cigarette smoke on the way from the penitentiary institution to the court.

In this case, the European Court recorded a violation of Article 3 of the European Convention, stating that the state is obliged to take measures to protect persons deprived of their liberty from the harmful effects of passivesmoking, in the event that a doctor's consultation and a medical examination indicate this (as well as the applicant's in case) that it is necessary for health reasons.

In another case, *Florea v. Romania*, the European Court found a violation of Article 3 of the European Convention on the ground that the applicant, who suffered from chronic hepatitis and hypertension, had been detained for nearly nine months with 110 to 120 other persons deprived of their liberty, of which, according to the latter, 90% were smokers. The applicant's complaints were also related to keeping him in the same ward with smokers in the medical service department of the penitentiary in case of a doctor's warning about the harmfulness of cigarette smoke.

In relation to the issue, the CPT, in its 2007 report on Germany, recommended a review of the policy and practice of allocation of prisoners by cell (accommodation), taking into account passivesmoking issues as well.

The US Supreme Court has also expressed its legal position regarding the issue under discussion. Thus, in the case of *Hunt v. Reynolds*, the court found a violation of the 8th Amendment of the US Constitution, based on the fact that non-smokers and applicants with health problems were, against their will, placed in the same cell as smokers. The applicants claimed that the cellmates' cigarette smoke had worsened their health. In this case, the court noted that the health problems caused by cigarette smoke are no different from other health problems. Persons deprived of liberty who may be allergic to the components of tobacco smoke or whose serious health problems may be attributed to tobacco smoke have the right to receive appropriate medical care, which may include removal from the place where smoke is present. The court also noted that inmates who have serious health needs to be kept in a smoke-free environment should not be forced to share their cell with inmates who smoke.

In the context of the issue under discussion, it is also necessary to refer to the guiding principle laid down in Article 4, Part 1 of the WHO Framework Convention on Tobacco Control (WHO FCTC), according to which every person should be informed about the health effects of tobacco use and the effects of secondhand smoke. effects, addiction and lethality, and in this regard, effective legislative,

executive, administrative or other measures should be considered at the appropriate governmental level to protect all people from exposure to secondhand smoke.

Pursuant to Article 8, Part 2 of the Convention, each Party shall, in the areas of existing national jurisdiction established by national law, adopt and implement at other levels of its jurisdiction actively support the adoption and implementation of effective legislative, executive, administrative and/or other measures that ensure the protection from exposure to smoke in workplaces, inside buildings, in public transport, in closed public places and in appropriate cases in other public places.

The implementation of the provisions of the Convention, including the above-mentioned provisions, is one of the main goals of the program to combat the use of tobacco products and substitutes for tobacco products.

Referring to the domestic legal regulations, it should be emphasized that in connection with the issue, there is the Order of the Head of the Penitentiary Service of April 8, 2015 "On Establishing Additional Guarantees for the Protection of the Rights of Non-Smoking Convicts and Detained Persons" in case of absence, the actions of placing detained persons or convicts according to cells (accommodations) should be organized as much as possible in such a way as to minimize the cases of keeping non-smokers in the same cell (accommodation) with smokers.

According to clauses 33 and 34 of the annex to the RA government's decision N 543-N of April 13, 2023, detained persons and convicts are allocated according to cells and are kept separately according to the law "On the detention of arrested and detained persons" and the RA Penitentiary Code appropriate, also taking into account the compatibility of the persons, the state of health and the provision of safety.

It should be noted that in connection with the solution of the problem three years ago, the Minister of Justice of the Republic of Armenia No. 47 of February 15, 2021 and the Minister of Health of the Republic of Armenia No. 09 of February 25, 2021 adopted the joint order on "On defining the procedure for the implementation of measures aimed at prevention of tobacco products in places of detention of detainees and convicts to reduce the use of product substitutes and the negative impact of tobacco smoke", which stipulates that when discussing the issue of allocating detained persons or convicts according to cells or shelters, it is necessary to take into account the detained persons or the circumstances of the convict's smoking, mentioning it in the placement decision, and during the placement process, it should be ensured as much as possible to minimize the cases of non-smokers being kept in the same cell or accommodation with smokers.

Despite the above-mentioned legal regulations, the observations made and the complaints addressed to the Defender show that in practice they are applied discretionarily, the problem of keeping non-smoker persons deprived of their liberty in the same cell (accommodation) with smokers is systemic and continues to be relevant. Thus, it is necessary to fix at the legislative level a mandatory condition of keeping non-smokers deprived of their liberty from smokers due to the health condition of the person.

Taking into account the approaches presented above and the fact that not solving the legislative problem under discussion is unacceptable from the point of view of the proper provision of the rights of persons deprived of their liberty, including the right to health care, in order to improve the legislative

acts regulating the field, the HRD staff has developed a bill providing for appropriate amendments and additions, which it is planned to establish a mandatory condition of keeping non-smokers deprived of their liberty from the smoking persons deprived of their liberty due to their health condition, as well as on the basis of medical indication.

In addition, the draft envisages applying the above-mentioned requirement of isolation also to medical units located in places of deprivation of liberty, as well as to events organized for persons deprived of liberty. This approach is based, among other things, on the requirements set forth in subparagraphs "a" and "f" of Article 6, Part 1, Clause 1 of the Law "On the Reduction and Prevention of Health Damage Due to the Use of Tobacco Products and Their Substitutes". Accordingly, the use of tobacco products, substitutes for tobacco products (except substitutes for tobacco products used for medical purposes) is prohibited: (...) in the buildings of organizations providing medical care and service (...), as well as in the buildings of state and local self-government bodies.

The above project has been circulated in the prescribed manner. According to the aforementioned, in order to solve the discussed problem, it is necessary:

- ✓ *to establish and implement clear programs aimed at informing persons deprived of their liberty about the damage caused by secondhand smoke;*
- ✓ *to take steps in the direction of implementing legislative changes to keep non-smokers deprived of their liberty from smokers based on a medical indication due to their health condition.*

4.6. Problems of ensuring the rights of foreigners deprived of their liberty

Issues related to ensuring the rights of foreigners and non-Armenian speakers deprived of liberty in penal institutions have been continuously raised in annual reports on the activities of the Human Rights Defender as a National Preventive Mechanism.

Many issues remain problematic and are under the focus of the Human Rights Defender.

It should be noted that due to the incomplete functioning of the translation services in the penitentiary institutions, there are still difficulties in communicating with persons deprived of their freedom who do not know the Armenian language, and the work with them is not fully implemented. Contacts with persons deprived of liberty, including socio-psychological and other work, are mainly carried out in the language that the foreigner knows to a certain extent or are not carried out. Communication with persons deprived of liberty who do not speak the Armenian language continues to be organized with the help of other persons deprived of liberty who speak the given foreign language.

According to the information provided by the Ministry of Justice of the Republic of Armenia, as of December 31, 2023, 199 foreign persons deprived of their liberty (140 detained persons and 59 convicts) were detained in penitentiary institutions, which made up 8.05% of the total number of persons deprived of their liberty.

The main part of foreign persons deprived of their liberty, 139 persons, were kept in the "Armavir" penitentiary institution. A relatively large number of foreigners were also detained in "Vardashen" (24 persons), "Abovyan" (11 persons) and "Nubarashen" (8 persons) penitentiary institutions.



Detention conditions of foreigners

According to the data provided by the Ministry of Justice of the Republic of Armenia, citizens of the Islamic Republic of Iran (59 persons) prevail among foreigners deprived of their liberty. According to the Ministry of Justice, as of December 31, 2023, prisoners from Georgia, the Russian Federation, Kazakhstan, Uzbekistan, Tajikistan, Kyrgyzstan, Turkmenistan, Afghanistan, Turkey, Israel, Syria, Lebanon, Iraq, Kuwait, Egypt, Morocco, Algeria, Yemen, Sudan, India, Bangladesh, Ukraine, Moldova, Latvia, Greece, Cyprus, Netherlands, China, South Korea, United States of America, Brazil, Peru, Venezuela, Guatemala and Dominican Republic.

In response to the HRD's question about ensuring communication with persons deprived of their liberty who do not speak the Armenian language, the Ministry of Justice of the Republic of Armenia stated that in penitentiary institutions there are versions of the basic rights and responsibilities of detainees and convicts translated into Russian, English, Persian and Georgian, which posted in visible places and provided to the latter.

In connection with the above, it should be noted that the Human Rights Defender, in its reports on the activities of the national preventive mechanism in previous years, has repeatedly raised the issue of translating the basic rights and responsibilities of detained persons and convicts into at least Spanish and Arabic, and today also into Indian, taking into account the freedom from freedom in penitentiary

institutions. significant numbers of disenfranchised Spanish-speaking, Arabic-speaking, and Hindi-speaking foreigners. In connection with solving the language problems of communication and ensuring the possibility of communication between foreign persons deprived of their freedom and employees of the penitentiary system, the Human Rights Defender also suggested involving translators in penitentiary institutions, developing chat rooms, acquiring special translation devices or organizing appropriate foreign language training courses for employees.

In 2023, not enough steps were taken to implement the above-mentioned proposals, and accordingly, the language problem continues to be an obstacle to both meeting the primary needs of foreigners deprived of their freedom, including providing medical care, and socio-psychological integration in the environment.

The problems related to ensuring the rights of foreigners recorded as a result of the visit to the "Vardashen" penitentiary institution in by the National Preventive Mechanism in 2023 also testify to the above.

Thus, at the time of the visit, 14 foreign persons deprived of liberty (13 convicts and 1 detained person) were kept in "Vardashen" penitentiary institution. The latter were citizens of the Islamic Republic of Iran, the Republic of India, Turkey, the Syrian Arab Republic, the Russian Federation and the Republic of Latvia.

The foreign convicts were involved in the unpaid work of the technical and economic maintenance of the penitentiary institution and carried out the distribution of food and supplies, as well as the institution's laundry.

During private interviews with representatives of the national preventi mechanism, foreign persons deprived of their liberty mentioned communication difficulties as the primary obstacle to protecting their rights, in particular, language barriers, which cause a number of complications in terms of meeting primary needs, providing medical care and social-psychological integration in the environment. As it was recorded during the private interviews, some of the foreign persons deprived of their liberty had to learn some Armenian words or phrases or communicate through other persons deprived of their liberty in order to enable their daily interactions with the staff. The latter also stated that they have no information about the translation services implemented in the penitentiary institution and have never communicated with the penitentiary officers or medical staff through an interpreter.

Actually, due to the unavailability of translation services in penitentiary institutions, it is not possible to carry out effective communication with persons deprived of their liberty who do not speak Armenian. Moreover, resocialization and psychological work with them is not fully organized or not carried out at all. In particular, persons deprived of their liberty stated that due to communication and communication barriers, they do not have the opportunity to fully participate in the cultural events organized in the penitentiary institution, as well as to fully use medical, psychological and legal services.

Another problem is the proper provision of medical care and services to foreigners deprived of their liberty due to the language barrier. The Ministry of Health of the Republic of Armenia announced

in connection with the above issue that the medical assistance of imprisoned persons who do not speak the Armenian language is organized with the help of a translator provided by the Penitentiary Service.

Despite the fact that the RA Ministry of Justice signed a contract in April 2022 for the purpose of providing 24/7 working hours in all penitentiary institutions with oral and written translation services in 32 languages, however, as it became clear during the visit, the penitentiary almost lacked this service. not used.

Thus, the question of ensuring the health care of foreigners deprived of their liberty, as well as the right to receive socio-psychological support and use other available services, is problematic.

This, in turn, casts doubt on the effectiveness of the implementation of correction and resocialization works with foreign convicts.

The CPT also expressed its position on the issue. In particular, in the 2015 report on Gibraltar, the CPT noted that if the administration of the penitentiary institution does not know the language of the persons deprived of their liberty held there, the involvement of appropriate translation services should be ensured to facilitate communication with the latter.

The CPT also noted in its 1994 report on Greece that prisons hold a significant number of aliens deprived of their liberty, and some of them do not have a full understanding of the institution's regime or their rights and responsibilities, as well as the administration of the penitentiary institution and the communication between aliens deprived of their liberty. there are serious complications in connection. Such a situation can cause misunderstandings and disputes. Therefore, the CPT suggested taking appropriate steps to overcome these complications (for example, the preparation and translation of information booklets describing the order and regime in the penitentiary, the rights and responsibilities of persons deprived of liberty and penitentiary officers, as well as appeal and disciplinary procedures, and translation into appropriate foreign languages, translation of expressions most frequently used in daily interactions between persons deprived of their liberty and correctional officers, elementary training of foreign languages for correctional officers).

The HRD emphasizes that the lack of means of proper communication with foreign persons deprived of their freedom in the penitentiary in a language they understand continues to be an obstacle in the realization of their rights.

During private conversations with representatives of the National Preventive Mechanism, foreign persons deprived of their liberty also stated that they use video calls twice a month, but in the absence of visits with relatives, it is preferable for them to use video calls more often (at least once a week) and for a longer period of time.

Another problem is the difficulty of organizing video calls due to the fact that the relatives of foreign persons deprived of their freedom and the foreign person deprived of their freedom are in different time zones. In particular, foreign persons deprived of their liberty often do not have the opportunity to contact their relatives through a video call, because they are in other time zones and the hours of video call permits in the penitentiary do not coincide with the time zone of their relatives.

Some foreigners who have been deprived of their freedom have also raised questions about the food provided in the penitentiary, noting that food in accordance with their religious beliefs is not provided by a private organization. Thus, the citizens of the Republic of India kept in the penitentiary reported that due to their religious beliefs, they do not eat pork and beef, but they are not replaced by chicken meat. According to the latter, they are provided with chicken meat only 2 times a week, and on the days when pork or beef is included in the menu, they simply do not take the meat.

This is problematic, and it is necessary to take urgent steps to provide foreigners deprived of their freedom with proper food in accordance with their religious beliefs.

During private interviews, non-Armenian-speaking citizens of the Russian Federation, the Islamic Republic of Iran, and the Republic of India, held in the penitentiary, expressed their concern regarding the fact that the judicial acts issued against them are provided only in Armenian without translation, and their content is not comprehensible to them.

In connection with the above issue, the Defender addressed a corresponding letter to the Supreme Judicial Council of RA, which was sent by the head of the Judicial Department to the President of the RA Criminal Court of Appeal, the President of the Criminal Court of First Instance of Yerevan City, as well as the Presidents of the Courts of First Instance of Marzes.

Foreigners told the HRDO representatives that they often face problems with providing clothes in the institution. The latter mentioned that providing them with weather-appropriate and additional clothes until the guilty verdict against them enters into legal force is an additional difficulty for them, because they have no relatives in RA, and it is practically impossible to buy clothes. However, Article 20 of the RA Law "On Detention of Arrested and Detained Persons" provides that arrested and detained persons wear their own clothes, if necessary, they are provided with clothes of a uniform pattern appropriate to climatic conditions and gender.

Thus, it is necessary to take measures to provide the foreign detainees held in penitentiary institutions with clothes of a uniform pattern appropriate to the climatic conditions and gender, as necessary.

During private interviews, foreigners also mentioned that in their free time they watch TV, play billiards or table tennis, or use the gym of the penitentiary.

The Ministry of Justice of the Republic of Armenia has noted that the libraries of the penitentiary institutions are to some extent equipped with Russian, English, French, German, Georgian, Persian and Arabic literature, which is of course welcome, but it cannot fully provide targeted employment of the latter, and in that direction it is necessary to take continuous steps by involving foreigners in the cultural and sports programs organized in the penitentiary institutions and in the relevant activities carried out in the institutions.



Detention conditions of foreigners

At the same time, it should be noted that during the monitoring visits carried out in 2023, the representatives of the HRD posted information posters on the mandate and activities of the National Preventive Mechanism in the territory of the penitentiary institutions and distributed information leaflets to persons deprived of their liberty in seven languages (Armenian, English, Russian, French , Spanish, Persian and Arabic).

Therefore, based on the problems listed above, it is necessary:

- ✓ ***in order to protect the rights of foreign persons deprived of their liberty, ensure the possibility of proper communication between them and the administration of the penitentiary institution and the medical staff of the SNCO unit, to engage translators in the penitentiary institutions, to introduce online translation services, to develop chat rooms, to acquire special translation devices or to provide suitable translation devices for the employees of the penitentiary system. by organizing foreign language training courses;***
- ✓ ***to organize communication with persons deprived of liberty who do not speak Armenian during the provision of medical assistance and service;***
- ✓ ***to properly inform foreigners deprived of their liberty about their rights and responsibilities in an understandable language, translating them into relevant languages (at least Spanish, Arabic and Indian);***
- ✓ ***to provide a reasonable frequency and duration of video call opportunities for aliens deprived of their liberty;***

- ✓ *to take steps to provide foreigners deprived of their liberty with proper food in accordance with their religious beliefs;*
- ✓ *to take steps in the direction of providing the judicial acts issued against persons deprived of their liberty who do not speak Armenian in a language they understand, ensuring the fulfillment of the requirements set by the legislation;*
- ✓ *to provide foreign detained persons, as necessary, with clothes of a uniform pattern appropriate to the climatic conditions and gender;*
- ✓ *to ensure targeted employment of foreign persons deprived of their freedom, involving them in the cultural and sports programs organized in the penitentiary institution and in the relevant activities carried out in the institutions.*

4.7. Conditions of quarantine and punishment cells

During the regular monitoring visits carried out in 2023, the quarantine and punishment cells of the penitentiary institutions were studied. The Human Rights Defender has raised the issue of insufficient storage conditions in the institutions' quarantine departments and punishment cells for years.

Thus, during the visit to the "Vardashen" penitentiary institution, it was recorded that the three cells on the first floor of the "Mekusaran" part of the institution are used as a punishment cell, isolation or quarantine, as needed. There was no separate quarantine department in the penitentiary.

Inadequate storage conditions were recorded in the cells mentioned above, in particular, the humidity level in the cells was high and the natural light transmission was low. The wooden floors of the cells were old, the plaster on the walls was falling off in places, the toilets in their bathrooms had no seats and there was a need for cleaning.

Inadequate conditions were also recorded in the punishment cells of "Sevan" and "Artik" penitentiary institutions and quarantine.

Although improvement and repair works were carried out in the quarantine-penitentiary buildings of "Sevan" and "Artik" penitentiary institutions (the roof of the building was improved in "Sevan" penitentiary institution, some penitentiary cells were repaired and furnished in "Artik" penitentiary institution), however, the buildings were completely in a state of disrepair, where the humidity level was high, and most of the cells were in urgent need of repair and cleaning.

At the time of the visit, 3 out of 5 quarantine cells and 4 out of 7 punishment cells were used in "Sevan" penitentiary institution. According to the information provided by the administration, the other cells are not used, because the degree of humidity in them is high, they are in dire need of improvement and are not operational.

The linoleum floors in the operating cells of the building were worn, the plaster on the walls was peeling, the humidity level was high, and in some cells, natural light penetration was low and artificial lighting was absent. It should be noted that the level of humidity in the punishment cells was so high that

despite the hot summer weather, an electric heating battery was activated in the cell. Due to the high level of humidity, there was an urgent need for repair and cleaning works in the corridor of the department, as well as in the operating cells.

The same problems were also recorded in the quarantine-penitentiary building of the "Artik" penitentiary institution. The quarantine building was not in use at the time of the visit, and repair works were planned there. It should be emphasized that the windows of the cells in the prison building, except for one, were sealed, it was not possible to provide natural ventilation and lighting, and the ventilation was carried out only through the door. There were also large cracks in the floor in the cells and in the corridor, through which it was possible for rodents to enter the building.

Deficient storage and sanitary conditions were recorded in the operating cells of "Sevan" and "Artik" penitentiary institutions.

Thus, the bathrooms in the punishment cells of the penitentiary institutions were of the Asian type. In the punishment cells of the "Sevan" penitentiary, although the bathroom sections were separated from the living part of the cell by a complete wall, the bathroom doors of the punishment cells were missing, as a result of which the bathroom was in direct visual field in some cells, which is unacceptable. This can be humiliating, especially when said cells are designed to hold two or more people. In some cells, the doors of the bathrooms were replaced with wool covers, and the bathrooms of the cells also lacked artificial lighting. The bathroom of one of the existing punishment cells of the "Artik" penitentiary institution is also located in the direct visual field of the door's observation hole. It is noteworthy that at the time of the monitoring visit, only one of the punishment cells had a bathroom, which was not completely separated from the living part of the cell and had no door. The toilet and water tap in the said cell did not work. The toilet in the cell was closed with a plastic bottle to prevent rodents from getting out, and drinking water was taken from the common bathroom in plastic containers.



Punishment cell

It should be noted that in the framework of the renovation works carried out in the punishment cells of the "Artik" penitentiary institution, bathrooms have been planned for the two punishment cells that are not equipped with bathrooms. There were no bathrooms in the other prison cells, and the prisoners kept there used a common bathroom.

The people kept in the quarantine cells and punishment cells of the "Sevan" penitentiary institution generally did not have access to running water, the drinking water supplies were collected in plastic bottles, and the water intended for domestic purposes in large plastic containers. According to the information of the penitentiary officers, when the water stored in the cells runs out, at the request of the persons deprived of their liberty, the water pumps are activated, and the latter are given the opportunity to replenish the water reserves.

In the cells of the "Artik" penitentiary institution, which did not have a bathroom or a water tap, drinking water supplies were also collected in plastic containers, and the people held there called the guard on duty to use the bathroom or drinking water.

During the private interviews with the representatives of the defender, the persons deprived of their liberty kept in the penal institutions reported that rats, dark-lovers, and other insects are often found in the quarantine cells and punishment cells, and they have to close the cracks in the floor and the sewer with plastic cut bottles or pieces of cloth so that the rodents cannot enter. penetrate the cell. It is noteworthy that during the monitoring visit, a stench prevailed in some cells of the "Sevan" penitentiary

institution, and rodent control drugs were visible in different parts of the quarantine-penitentiary building.



Punishment cell

In the "Sevan" penitentiary institution, the artificial lighting of the cells was provided by means of switches installed in the corridor of the building. Despite the fact that the persons deprived of their liberty did not have the opportunity to independently control the artificial lighting of the cell, which was interpreted as a measure aimed at ensuring the safety of the person and preventing suicides and self-harms, however, there were other power sources in the cells, which aimed to provide radio receivers and operation of electric heating batteries. Moreover, the sockets of the cells were found in a semi-destructive state, and the power cords were visible.

The electric lighting in the cells of the Artik penitentiary institution was not turned off or dimmed throughout the night due to the lack of electrical regulators. Moreover, a unified electrical system operated in the building, as a result of which it was not possible to turn off the artificial lighting of individual cells or rooms of the building. As a result, proper conditions for sleeping were not provided for persons deprived of their liberty in the penitentiary institution.

During the monitoring visits, problems related to the overcrowding of the prison cells were also recorded. Thus, in some of the punishment cells of the "Artik" penitentiary institution, which were intended for the detention of two persons, the living space of minimum 4 square meters provided by the law for one person deprived of liberty was not provided (see section 4.2 of the report).

The bathroom of the punishment cell building of "Artik" penitentiary institution was in need of repair at the time of the visit. The bathroom of the quarantine-penitentiary building of the "Sevan" penitentiary institution was thoroughly repaired about a month before the visit of the National Preventive Mechanism and was ready for use, which is welcome. However, the penitentiary staff were not informed how to operate the water boiler in the bathroom. Moreover, during the private conversations with the persons deprived of their freedom, it was found that the latter were generally not informed about the existence of the renovated and commissioned bathroom in the building. According to the latter, they took a bath either in the residential area, before or after moving to the prison building, or in the bathroom of the building separated for long visits. By studying the relevant register, it was found that as of July 2023, only 2 of the 107 convicts registered in the prison building used the right to bathe, and 5 of the 95 registered in the quarantine department.



Punishment cell

In the punishment cells of the "Sevan" penitentiary institution, bedding and linen were missing, according to the employees, the convicts bring the linen with them when they move from the punishment cell. In one of the unused cells of the building, where the level of humidity was high, both new and used bedding - mattresses, pillows - were kept. The level of humidity was also high in the room intended for storing bedding of persons kept in the punishment cells of the "Artik" penitentiary institution. During the monitoring visit, various bedding, clothing, dishes were stored in the mentioned room. Insufficient sanitary and hygienic condition was recorded in the room, in particular, the bedding was in a dirty state, messes were piled up on the iron and wooden shelves in the room, and in some cases they were simply thrown on the floor.



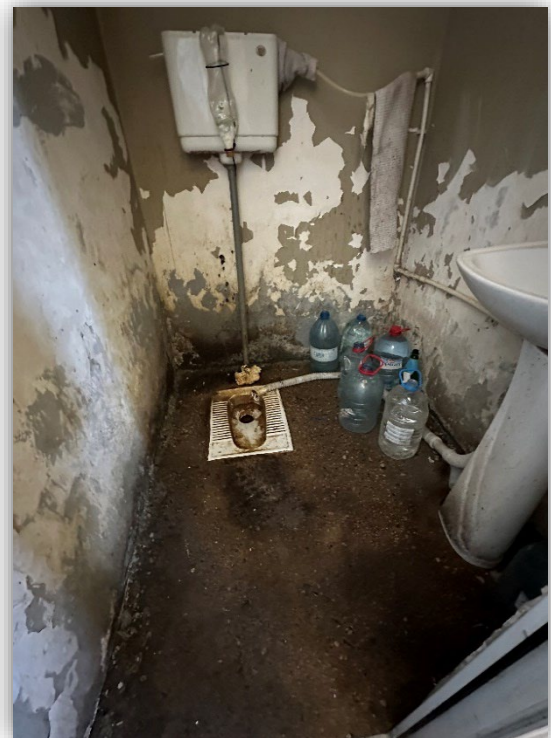
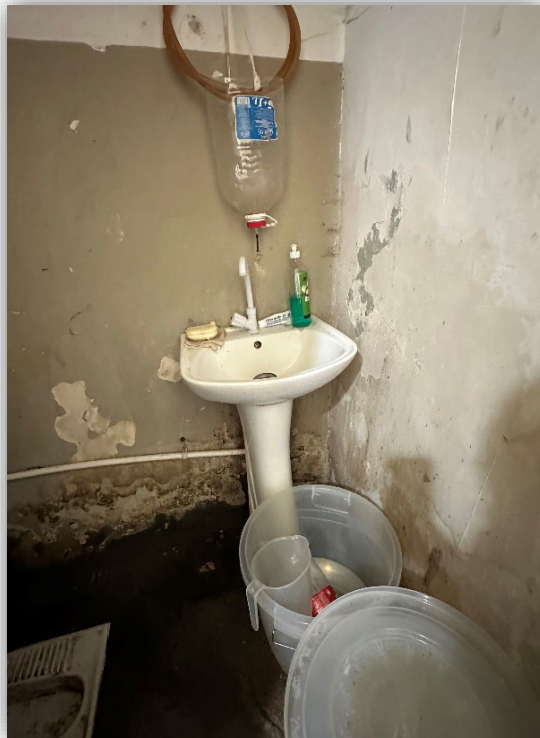
Punishment cell

Problems were recorded in connection with the organization of outings for the persons kept in the quarantine-prison buildings of the penitentiary institutions. The way to get to the promenade of the above-mentioned buildings of the penal institutions was not adapted to the needs of people with mobility problems. In "Sevan" penitentiary institution, the floor of the small corridor leading to the playground was uneven and was one step higher than the floor of the common corridor. The entrance to the playground in the "Artik" penitentiary institution was through an untidy staircase. In the quarantine cell building of the "Sevan" penitentiary institution, only one playground was separated, where, although there was a cover to protect against adverse weather conditions, the only bench in the playground was not placed under the cover. In the playground of the punishment cell department of "Artik" penitentiary institution, there were two separate cells, in one of which the bench was missing at the time of the visit.

The Defender emphasizes that the operation of punishment cells and quarantine cells under such conditions is unacceptable, it violates a number of provisions established by international and domestic legislation, human dignity and the right to health care of persons deprived of their freedom. Thus, it is necessary to provide sufficient conditions for the normal life of a person in the quarantine cells and punishment cells of penitentiary institutions, including living space with a sufficient area, the possibility of constant access to a bathroom and drinking water, proper lighting and ventilation. The poor conditions of the quarantine department and punishment cells of the penitentiary can have a negative impact on persons deprived of their liberty, especially in cases

where the person is in the penitentiary for the first time. This is also key from the point of view of preventing suicides and self-harms of persons deprived of their liberty, as well as excluding ill-treatment.

It is important to emphasize that regarding the monitoring visit to the "Sevan" penitentiary institution, the Ministry of Justice of the Republic of Armenia announced that complete renovation works are being carried out in the prison and quarantine building of the institution. Bars, electrical outlets and wiring are replaced. Bathroom doors in prisons and all cells in the quarantine building are replaced with new ones. Complete renovation of the bathroom is underway, and it is also planned to renovate the promenade.



Quarantine

According to the information provided by the RA Ministry of Justice, as a result of the works carried out during the fourth quarter of 2023, the punishment cells of the "Artik" penitentiary institution, including the bathrooms, were renovated. According to the Ministry, the renovation works in the institution's quarantine shelter are planned to be carried out in 2024.

Considering the above, it is necessary to:

- ✓ ***separate quarantine cells from punishment cells in penitentiary institutions;***
- ✓ ***carry out major repair and cleaning works in quarantine cells and punishment cells, including their bathrooms, providing proper conditions for the persons kept there;***

- ✓ *ensure constant water supply of quarantine cells and punishment cells, natural and artificial proper lighting, ventilation, disinfection, as well as proper furnishing of sanitary areas;*
- ✓ *exclude the operation of cells without water supply and bathrooms;*
- ✓ *take steps to provide all the cells of the "Artik" penitentiary building with bathrooms.*
- ✓ *separate the bathrooms of the punishment cells of all penitentiary institutions from the living space with a complete wall and to furnish them with doors;*
- ✓ *take steps to ensure the minimum living space of every person deprived of liberty kept in the prison cell in accordance with the national and international standards;*
- ✓ *provide quarantine cells and punishment cells with electric regulators for turning off artificial lighting, creating proper conditions for the sleep of persons deprived of their freedom;*
- ✓ *ensure the possibility of bathing for persons kept in quarantine cells and punishment cells, providing for them appropriate conditions;*
- ✓ *provide proper conditions for the storage of bedding for persons kept in prison cells;*
- ✓ *adapt the way to the quarantine-penitentiary building's promenade to the needs of people with mobility problems.*



Quarantine

4.8. Providing adequate food

Provision of adequate food is vital for the health care of persons deprived of their liberty.

During the monitoring visits to "Vardashen" and "Sevan" penitentiary institutions in 2023, it was recorded that the food preparation services for the needs of the penitentiary institutions were delegated to a private organization, and during private conversations with the representatives of the Defender, the taste, quality, quantity and variety of the food provided to persons deprived of liberty generally did not present complaints related to it. At the same time, a large number of convicts reported that they prefer to use food delivered by handouts and rarely use food provided by a private organization.

During the visit, there was no kiosk in the territory of the "Sevan" penitentiary institution, and the persons deprived of their freedom expressed their concern, stating that they do not have the opportunity to purchase the necessary items or food according to the law.

During private conversations with the representatives of the Defender in the "Artik" penitentiary institution, the persons deprived of their freedom expressed complaints about the taste and quality of the food provided by the private organization, specifically noting that the food is often half-cooked or burnt. The latter also noted that the food freezes before reaching the buildings and is provided to them cold.

In response to the Defender's request regarding the monitoring of ready-made food supplied by a private organization in penal institutions, the Ministry of Justice of the Republic of Armenia stated that the monitoring of food rations allocated to persons deprived of liberty is carried out by the responsible employees of the institution on a daily basis, during each supply. According to the Ministry, when receiving the food, the responsible employees of the penitentiary weigh and check the compliance of each delivered batch with the portions approved in the menu, examine the appearance, taste and smell of the food, after which they sample all the dishes, which are stored in the appropriate cold storages for a period of 48 hours.

In connection with the above, the fact that the penitentiary does not control the energy value of food and the sanitary and hygienic conditions of its storage is of concern. The lack of proper control structures and legal regulations for ready-to-eat food received in penal institutions can lead to various violations, including food quality, energy value, sanitary, transportation and storage conditions.

In the course of conversations with both persons deprived of liberty in penitentiary institutions, as well as the administration of the penitentiary and employees of a private organization providing food preparation services, it was found that in case of escorts lasting four or more hours, food is not provided to the persons kept in the institution, which is concerning. Under the mentioned conditions, a situation arises when persons deprived of their liberty are not provided with the necessary food when being transported from penal institutions to courts located far away, participating in long court sessions and/or being kept in cells intended for temporary detention in courts.

Studying the "Medical examination of those admitted to the Penitentiary" log in the "Artik" penitentiary institution, it becomes obvious that in cases of being transferred to courts, persons deprived of their liberty return to the penitentiary, mostly, after four or more hours.

It should be noted that the duty of providing food for persons deprived of their liberty who are currently transferred to the court is placed on the administration of the corresponding place of deprivation of liberty, from where the person is transferred. In particular, paragraph 15 of the appendix to the decision

No. 351-N "On approving the procedure for escorting and keeping arrested and detained persons by the Police of the Republic of Armenia under the Government of the Republic of Armenia" adopted by the Government of the Republic of Armenia on April 2, 2009, states that four or more hours during the duration (long-term) escort, which includes the escort route or the judicial action, the arrested or detained person is provided with food, which is provided by the prison or the penitentiary, respectively.

According to the contract signed between the Penitentiary Service and "Ready-Steady" LLC, in the case of transportation of detained persons and convicts held in penitentiary institutions for four hours or more, it is planned to provide dry food in disposable containers for the said persons instead of lunch without providing additional money.

Annex 2 of the RA Government's Decision No. 245-N of February 23, 2023 "On determining the proportions of hygiene items necessary for the maintenance of the personal hygiene of the convict, the proportions of equipment, bedding and their periods of use, the average and replacement portions of food" food rations given to a detainee or convict in case of transportation lasting four hours or more, namely: bread and bakery products made from wheat flour of the 1st type, canned meat or fish, fruit juice and cheese.

Another problem is the impossibility of using cans provided by the above-mentioned decision of the RA Government, because neither in the vehicles transporting persons deprived of their liberty nor in the courtrooms are there adequate conditions for receiving cans (tables, dishes, the possibility of heating food and etc.) are not available.

The defender emphasizes that not providing sufficient quantity and energy-value food regularly during the day to persons deprived of their freedom can lead to malnutrition, as well as bad attitude.

Considering the above, it is necessary to:

- ✓ ***to take steps in the direction of the implementation of control structures for maintaining the minimum daily portions of food provided by a private company to persons deprived of liberty, as well as relevant legislative regulations, as defined in Appendix 2 of the RA Government's Decision N 245-H of February 23, 2023;***
- ✓ ***to take measures to ensure the proper thermal regime of food provided to persons deprived of their freedom;***
- ✓ ***review the range of food provided to persons deprived of the freedom of transportation for four or more hours provided by Annex 2 of the RA Government's decision N 245-N of February 23, 2023.***

4.9. Bathing and laundry arrangements

During the monitoring visits carried out in 2023, the representatives of the Defender also examined the bathrooms and laundries of the penitentiary institutions, the conditions of bathing and

laundry. As a result of the studies, problems related to the provision of bathing and laundry for persons deprived of their liberty were recorded.

Thus, during the monitoring visit to the "Vardashen" penitentiary institution, insufficient conditions were recorded in the bathrooms of the "Mekusaran" part of the institution. In particular, the humidity level was high in the bathroom on the first floor, and the putty on the walls and ceiling was leaking. There was a need for cleaning in one of the bathrooms on the second floor and in its lobby. The bathroom was equipped with two showers, which were not separated by a partition, and there were water tanks in the hall. The other bathroom on the second floor of "Isolation" was renovated and properly furnished.

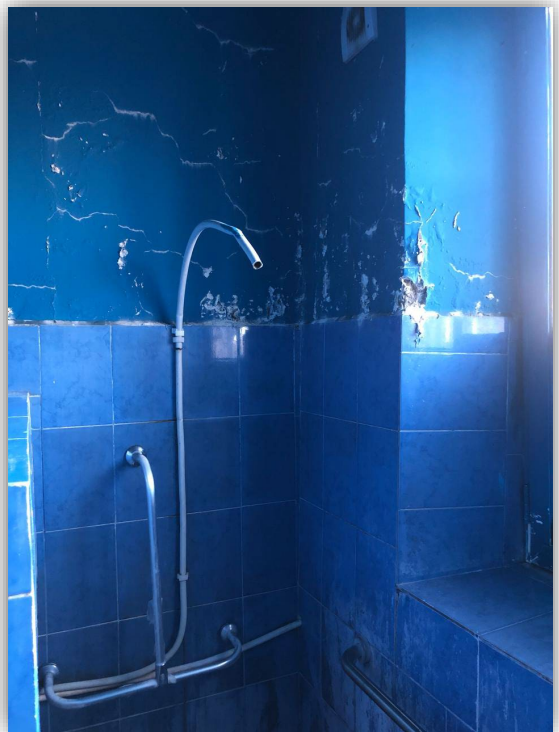
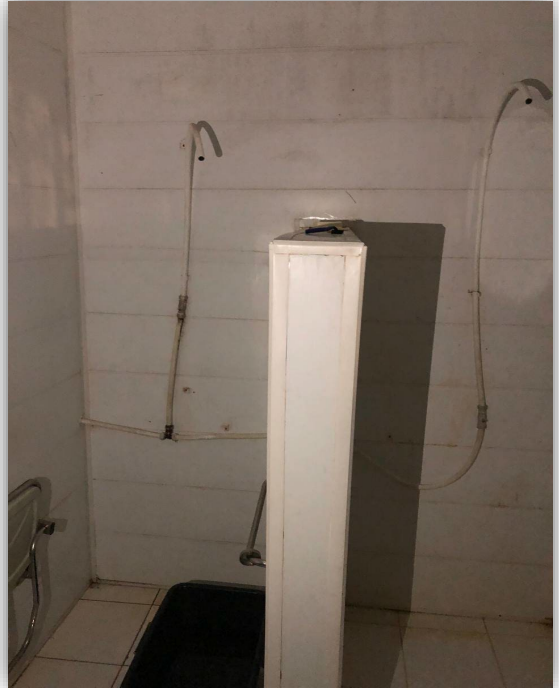
During the private conversations with the defender's representatives, the persons deprived of their liberty stated that their bath is organized 2-3 times a week, which is welcome. Some persons held in the cells of the second floor of the "Isolation Center" reported that due to the lack of water tanks in the newly renovated bathroom, the water freezes during bathing, and it is not always possible to take a proper bath there. The latter mentioned that they often have to use an unrepaired bathroom, where cleaning is not carried out, and the sanitary and hygienic conditions are insufficient.

Convicts kept in the low-security zone of the "Vardashen" penitentiary institution noted that the bathroom is located in the yard, which creates difficulties when taking a bath in cold weather. According to the latter, their bath is organized as needed, which is welcome.

It should be noted that the low-security bathroom in the above-mentioned penitentiary institution turned out to be a tiled room in the courtyard, where a single faucet without a shower was installed from the ceiling. The bathroom did not have an attached vestibule or dressing room where persons deprived of their liberty would have the opportunity to put on their clothes.

Persons deprived from their liberty also expressed their displeasure with the water cuts of the "Vardashen" penitentiary institution, noting that they are periodic in nature, and unsanitary conditions are often created in the cells. The problem of frequent water cuts was also raised by penitentiary officers. It should be noted that the water supply to the institution was stopped during the entire monitoring visit.

There was one bathroom on each floor of the "Artik" penitentiary institution, which had two shower cubicles. The bathrooms, in general, were in need of repair, there was a need to carry out cleaning works, the humidity level in the bathrooms was high, the putty on their walls and ceiling was falling off in places, and the pipes were rusted. Showers were mostly absent in the bathrooms, and artificial lighting was also absent.



Bathroom

During the private conversations with the representatives of the Defender, the persons deprived of their freedom kept in the "Artik" penitentiary institution stated that their bath is organized once a week in the institution, but they would like it to be organized more often.



Laundry

During the visit to the "Armavir" penitentiary institution, it was recorded that the persons deprived of their freedom were deprived of the opportunity to properly organize their bath.

In particular, in each building of the "Armavir" penitentiary institution, hot water was provided only once a week for an hour, and it was too dirty and rusty at the beginning, so it was not used, and in order to have the necessary temperature for taking a bath, persons deprived of their liberty had to have been waiting for a long time. Moreover, the water for bathing was generally not provided with sufficient temperature.

Under the mentioned conditions, all persons deprived of their liberty kept in the cells of the "Armavir" penitentiary institution simply did not have time to take a bath, because the water froze or was turned off in general. Persons deprived of their liberty stated that due to the contamination of the running water, after taking a bath, the skin became scaly, blistered and itchy. Consequently, the latter had to boil water using an electric kettle in order to maintain proper personal hygiene.

In relation to the organization of bathing for persons deprived of their liberty, paragraph 102 of the appendix to the RA Government's decision N 543-N of April 13, 2023 stipulates that every detained person or convict must take a bath or shower at a climate-appropriate temperature at least once a week. and if possible, more frequently if it is necessary to maintain general hygiene.

In this regard, during the visits to Armenia, as well as to a number of other countries, the CPT has repeatedly called on the authorities to increase the frequency of showering of prisoners, based on Rule 19.4 of the European Prison Rules. According to this rule, adequate facilities must be created so that every person deprived of liberty can take a shower or bathe at an appropriate temperature for the climate, and if possible every day, but at least twice a week (and if necessary, more often) based on general hygiene. from the purpose of conservation.

According to the recommendations presented in the 2016 CPT report on Armenia, the opportunity to take a shower should be provided at least twice a week.

In connection with increasing the number of baths for persons deprived of their liberty, the Ministry of Justice of the Republic of Armenia announced that studies are being carried out by the relevant departments of the Penitentiary Service on ensuring the possibility of providing a bath for persons deprived of their liberty every 5 days, including the additional cost of the necessary energy sources: electricity, water, gas. preliminary calculations.

Each accommodation of the "Sevan" penitentiary institution had a bathroom, a possibility to take a shower and a washing machine. Tanks and electric water heaters were installed in the baths. During the private conversations with the Defender's representatives, the convicts stated that their bathing in the buildings is organized according to their wishes, and there are no restrictions regarding the number and duration of bathing.

The common bathroom of the "Sevan" penitentiary institution was not used due to extremely inadequate conditions. According to the received information, it is planned to demolish the old building of the bathhouse and build a new bathhouse in its place. The laundry room, equipped with two washing machines, was located next to the bathroom. The laundry in the laundry room was carried out by the convict involved in the technical and economic maintenance works of the institution, however, most of the incarcerated persons preferred to do the laundry using the washing machines installed in the bathrooms of the residences.

The washing machine was missing in the low-security zone of the "Vardashen" penitentiary, in connection with which the inmates reported that due to its absence, they have to wash clothes and linens by hand.

In the Mekusaran building of the "Vardashen" penitentiary institution, laundry was organized by means of a washing machine installed in the corridor of the building according to the cells, and in the "Artik" penitentiary institution, the laundry was organized according to the institution's buildings. There, too, the laundry was carried out by convicts involved in technical and economic maintenance works of the institution. Some persons deprived of their freedom told the Defenders that they hand over their clothes and bedding to their relatives for washing.

The humidity level in the laundry room of the "Artik" institution was quite high, the plaster of its walls and ceiling had completely fallen off, there was a need to carry out repair works. 4 new washing machines have been installed in the laundry room, which is welcome.

During the visit to the "Armavir" penitentiary institution, problems related to the organization of laundry were also recorded. Laundry was organized at the foundation once every 2-3 weeks, which is problematic from the point of view of maintaining the personal and general hygiene of persons deprived of their freedom. The above-mentioned problem was due to the absence of a laundry worker.

In this context, the availability of disinfectants in the penitentiary institution and the organization of disinfection work are also important. According to the received information, disinfectants are not always used during the washing of the bedding of persons deprived of their liberty, and there are no uniform standards for their use.

Considering that many people deprived of their liberty enter and are kept in prisons, who may be carriers of various infectious diseases, it is necessary to develop a uniform form of disinfection in prisons, providing also standards for disinfection of bedding and linens, which will exclude the possibility of the spread of infectious diseases.

Based on the above, it is necessary to:

- ✓ ***carry out cleaning, repair, and necessary furnishing works in the bathrooms of penitentiary institutions, providing proper and dignified conditions for persons deprived of their freedom to use the bathroom;***
- ✓ ***take steps to ensure round-the-clock water supply of "Vardashen" penitentiary institution;***
- ✓ ***provide artificial lighting in the bathrooms of the buildings of the "Artik" penitentiary institution;***
- ✓ ***based on the need to maintain the general hygiene of persons deprived of their freedom, to provide for them the opportunity to bathe at least twice a week;***
- ✓ ***ensure proper and sufficient conditions in penal institutions (by installing washing machines, if necessary) for organizing the washing of clothes and linen of persons deprived of their liberty;***
- ✓ ***develop and approve a uniform form of proper disinfection in penitentiary institutions, providing also standards for disinfection of bedding, which will exclude the possibility of the spread of infectious diseases.***

4.10. Ensuring the right to rest, including outdoor walks or gymnastics

In 2023, problems related to the realization of the right of persons deprived of their liberty to rest, including outdoor walks and gymnastics, were also recorded in the penitentiary institutions.

Thus, during the monitoring visit to the "Artik" penitentiary institution, it was found that in the first building of the institution, where the detained persons were kept, the walk of the persons deprived of their liberty is organized in 4 separate walking cells located near the entrance of the building. The cabins were equipped with benches, trash cans, as well as covers for shelter from bad weather conditions. The cabin walls were about three meters high, and metal bars were placed above them. It should be noted that the surface of the walking cells did not differ significantly from the surface of the cells.

In connection with the above, the European Court of Human Rights noted in the case of *Moiseyev v. Russia* that the playgrounds, being only two square meters larger than the cells, did not provide a real opportunity for exercising to persons deprived of their liberty. Moreover, the courtyards were enclosed by three-meter-high walls, covered with metal bars and thick mesh on top.

According to the ECHR, it is obvious that the limited space enclosed by complete walls and the lack of visibility do not create the necessary conditions for the proper organization of rest and rehabilitation of a person deprived of his/her liberty.

As a result, the Court recorded a violation of Article 3 of the European Convention on the Protection of Human Rights and Fundamental Freedoms.

There was one playground in the building No. 3 of the "Artik" penitentiary institution, where the detained persons were also kept. In this regard, the penitentiary officers noted that previously convicts were kept in the III building and the absence of walking cells and the presence of only one playground is due to that circumstance. It should be noted that in some places, the paving stones were, and the bench and table under the cover were worn out. According to the provided information, the walk of the detained persons is organized according to the cells, and in this case, the question arises as to how the administration of the penitentiary institution ensures the possibility of a minimum one-hour walk per day for the persons kept in the 16 cells of the building No. 3 of the institution in the conditions of the eight-hour working regime, in the presence of one playground.

Thus, in order to make the walks of the persons held in the building No. 3 of the "Artik" penitentiary institution proper, it is necessary to take steps to provide the part building with a larger number of walking cells.

Convicts placed in the high security zone were kept in the building No. 4 of the "Artik" penitentiary institution. The park of the apartment building was quite spacious, there were trash cans, and there was also a closed chat room.

In the "Isolator" building of the "Vardashen" penitentiary institution, the walks of persons deprived of their liberty is organized in 6 separate walking cells, which were equipped with benches, trash

cans, as well as covers for shelter from bad weather conditions. In one of the cabins there was also a shower for bathing.

Some of the cabins had equipment for exercising, but they were few and worn, and one of the cabins had a self-made exercise machine. In connection with the above, the persons deprived of their liberty kept in the "Isolator" building of the "Vardashen" penitentiary institution expressed their dissatisfaction, noting that their main occupation in the institution is gymnastics, and the lack of the necessary amount of new exercise equipment and sports accessories is problematic. Exercise equipment and sports accessories were also not available in the walking cells and playgrounds of the buildings of the "Artik" penitentiary institution, as a result of which the right of persons deprived of their liberty to exercise outdoors was not ensured.

In this regard, it should be noted that the right to rest, including outdoor walks, is guaranteed by both domestic and international documents.

Thus, the discussed right has received its clear confirmation in the domestic legislation. According to Article 10, Part 1, Clause 6 of the RA Criminal Code, the convict has the right to: (...) rest, including outdoor walks, gymnastics and eight hours of night sleep.

In addition, Article 13, Part 1, Clause 10 of the RA Law "On Detention of Arrested and Detained Persons" stipulates: that an arrested or detained person, in addition to the rights provided for in the Code of Criminal Procedure, also has the right to: (...) rest, including outdoor walks or gymnastics and eight hours of sleep a night.





Walking area

The importance of providing opportunities for exercise to persons deprived of their liberty during the walk is also addressed in the European Prison Rules. Rules 27.3 and 27.4 of the said document provide that appropriate measures aimed at increasing the level of physical fitness, providing opportunities for gymnastics and recreation should form part of the regime of the place of deprivation of liberty, and the management of the place of deprivation of liberty should contribute to this by providing appropriate with devices and equipment.

According to Rule 23 of the Nelson Mandela Rules, all persons deprived of their liberty who are not engaged in outdoor activities have the right to daily outdoor gymnastics of not less than one hour's duration.

Part 2 of the same rule stipulates that for minors, as well as for persons deprived of liberty of other age groups, who are in good physical condition, the opportunity for exercise and games should be provided. For this, need to have the necessary spaces, devices and property.

Thus, the daily routine of persons deprived of their liberty should include gymnastics, sports, entertainment programs. In this regard, the state should take measures aimed at ensuring the above-mentioned measures.

There were rooms equipped with sports equipment on the 2nd floor of the building No. 5 of the "Artik" penitentiary institution. In one of the rooms, there was a table tennis and boxing ring, and in the other - exercise machine. It should be noted that the rooms were in need of repair, and the machine installed there was quite old (for example, the "boxing" was repaired using a plastic bag). Artificial lighting was missing in one of the rooms, and there was a thick layer of dust on the exercise machine, which suggests that they have not been used for a long time.

The room set aside for the same purpose on the 3rd floor of building No. 5 was radically different from the rooms described above in terms of its conditions. The said room was properly furnished and renovated, had a laminate floor and suspended ceilings, a pool table, music center, speakers, television, chess and lotto, as well as a sink were installed there. There were also scarecrows on the floor and hanging on the walls in the room.

There was also a room equipped with exercise equipment in the building no. 4 of the "Artik" penitentiary institution. The plaster of the walls and ceiling of the mentioned room was falling off in some areas, and the floor was old. There was also no artificial lighting in the gym.

The significant difference in the conditions of the exercise rooms in the buildings of the "Artik" penitentiary institution is concerning from the point of view of the realization of the equal rights of persons deprived of their liberty.

In response to the Human Rights Defender's inquiry regarding the measures taken to provide the penitentiary institutions with the necessary amount of exercise equipment and sports accessories, the Ministry of Justice of the Republic of Armenia stated that in December 2023, the Penitentiary Service started a procedure for purchasing exercise machine for the penitentiary institutions (exercise wall, mechanical treadmill, mechanical, metal bicycle) in order to acquire. According to the Penitentiary Service, the purchase has been made, and in the near future the exercise machine will be distributed to the penitentiary institutions.

Penitentiary institutions continue to lack the opportunity to go for a walk for visitors, including minors, due to the lack of separate walkways in the long-term visitation rooms. This problem has been raised by the Defender for years, but no steps are taken to solve it.

In response to the Human Rights Defender's inquiry regarding the mentioned issue, the RA Ministry of Justice provided information that only the long-term visit area of the "Armavir" penitentiary institution is provided with a specially separated playground.

It should also be noted that in domestic legislation there is still a problem of distinguishing the duration of walks provided to arrested or detained women and female convicts. Thus, paragraph 2 of Article 27 of the RA Law "On Detention of Arrested and Detained Persons" stipulates that arrested or detained women and minors enjoy the right to a daily walk of no less than two hours, during which they are given the opportunity to gymnastics.



Walking area

At the same time, the RA Penitentiary Code stipulates the right to a daily walk of at least two hours only for convicts who are pregnant, have children under the age of three, or minor convicts. Thus, it turns out that all arrested or detained women enjoy the right to a daily walk of no less than two hours, and female convicts can use this right for the specified period if they are pregnant or have a child up to three years old.

It is noteworthy that the former Penitentiary Code of the Republic of Armenia provided for the right to a daily walk of at least two hours only for juvenile convicts, and the provision of the said right for convicts who are pregnant and have children under the age of three under the new code is welcome. However, there is still a deviation from the revised general logic in the legislation, which requires appropriate steps to be taken to correct it.

Considering the above, it is necessary to:

- ✓ ***taking into account international standards, to review the legal norms for the construction of promenades (parks) and to provide proper conditions for the organization of***

- promenades for persons deprived of their liberty; in particular, to revise the construction requirements for playgrounds with walls three meters high and above, covered with metal bars and thick netting;*
- ✓ *provide for a larger number of walking cells in penitentiary institutions, ensuring the right to practice gymnastics at least one hour of daily walking of the persons deprived of their liberty held there;*
 - ✓ *in order to properly ensure outdoor walks of persons deprived of their liberty, to carry out repair and periodic cleaning of picnic areas (parks);*
 - ✓ *furnish the gymnastics rooms (playgrounds) of penitentiary institutions with the necessary amount of new exercise machine and sports accessories, ensuring the proper exercise of the right of persons deprived of their liberty to exercise;*
 - ✓ *ensure the right to walks during long visits, by providing adapted and separated playgrounds for this purpose;*
 - ✓ *ensure a unified legislative approach to the duration of the walk for women deprived of their liberty.*

4.11. Contact with the outside world

The importance of maintaining contact with the outside world by persons deprived of their liberty has been repeatedly raised by the Human Rights Defender. Communication with nationals has a positive effect on them, which is also essential from the point of view of their resocialization and not losing social ties.

On the one hand, the national preventive mechanism has become the subject of study on the issues related to appointments, phone calls, assignments, correspondence.

First of all, it is necessary to mention the poor condition of the road sections adjacent to the penitentiary institutions, which causes a great difficulty in terms of movement of transport units.

During the monitoring visits, it was recorded that there was no waiting room for visiting relatives of persons deprived of their liberty in the territory of "Sevan" penitentiary institution or in its vicinity, and in "Artik" penitentiary institution, although there was an open-air waiting room, it was cold, due to the weather conditions, it didn't have enough opportunity to shelter. In relation to the mentioned issue, the problem recorded in the "Armavir" penitentiary institution base has not yet been resolved (for details, see the 2022 annual report on the activities of the Defender as a National Preventive Mechanism).

It should be noted that a waiting room was being built for the visitors of prisoners deprived of their liberty, including minor children visiting the penitentiary institution with them, which is welcome.

The National Preventive Mechanism also noted problems with short-term and long-term appointments. In particular, in the studied penitentiary institutions, the tables, corners, chairs or benches in the rooms of the prison meetings are located close to the bed, which does not allow people to be separated in case of the simultaneous organization of the prison meetings.

As a result of the studies of the representatives of the Human Rights Defender, it was recorded that in the penitentiary institutions, the persons who came for a visit, including minors, were not given the opportunity to go for a walk, due to the absence of separate playgrounds.

According to the Ministry of Justice, there is a separate promenade for the long-term observation room only in the "Armavir" penitentiary institution.



Children`s room

During the monitoring visits, although there were separate children's rooms, it was necessary to provide them with toys and accessories for children of different age groups, as well as to carry out repair and cleaning works.

The National Preventive Mechanism also addressed the issues related to phone communication. It was recorded that the payphones installed in the penitentiary institutions were fixed, and besides, it was possible to call the "hotline" number of the Office of the Human Rights Defender free of charge, with the exception of the "Artik" penitentiary institution. It is worth noting that not all payphones were posted with instructions on how to call the hotline of the Defender's Office.

In the course of separate interviews, persons deprived of liberty in penitentiary institutions reported that it was possible to make free calls from payphones and phones of the institution only to city phones, while calls to mobile phones were made using cards. The latter expressed their displeasure with the disproportionately high phone rates provided by cards in the penitentiary institution and noted that these cards are obtained with great difficulty through nationals. The problem is even more emphasized in the absence of a kiosk in the penitentiary.

According to the information provided by the RA Ministry of Justice, there are separate cells for phone conversations in "Sevan" and "Vardahen" penitentiary institutions. Communication difficulties

with the outside world, particularly problems with payphones, were also recorded during the visit to the "Armavir" penitentiary institutions. Thus, two payphones were installed in the 6th building of the penitentiary institution, one of which was malfunctioning. At the time of the visit, it was not possible to make a call to the hotline of the Human Rights Defender from either of the two payphones installed in the 3rd building of the criminal detention facility. According to the received information, the persons deprived of freedom for a long time did not have the opportunity to contact the staff of the Defender, which is concerning.

According to the information received from the Ministry of Justice, after the problem was reported by the Defender, the payphone equipment was removed in the "Armavir" penitentiary institution.

Communication with the relatives of persons deprived of their liberty in penitentiary institutions was also facilitated through video calls.

It should be noted that some problems have been reported with the video call logs. In particular, the above-mentioned list was missing in the "Sevan" penitentiary institutions, the relevant records were taken to a one-page list.

According to the information provided by the Ministry of Justice, taking into account the fact that there is a "Skype" system in the computer system for providing video calls in penitentiary institutions, which people deprived of their liberty do not want to use, and "Viber" and "WhatsApp" programs are not intended for such communication, for computers, software problems occur frequently. In order to provide a systemic solution to the existing problem, in order to provide video calls with equipment equipped with appropriate technical capabilities, the Penitentiary Service has announced a tender for the purchase of robust portable tablets.

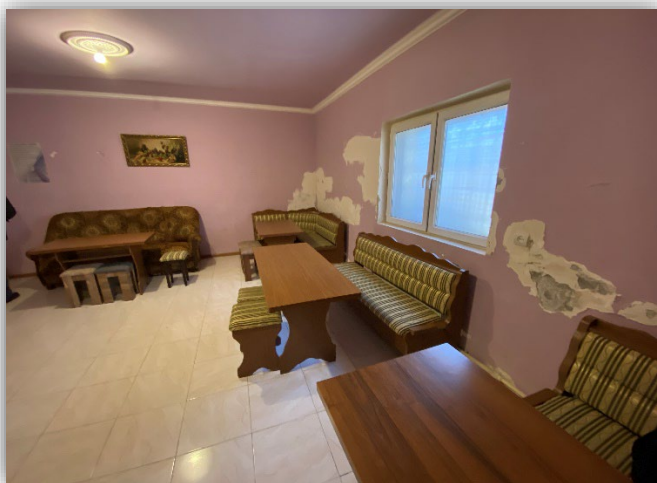


Telephone

During the monitoring visits, the detention rooms of the penitentiary institutions were also examined. Delivery inspection devices were installed in the mentioned rooms, which makes it possible to exclude as much as possible mechanical damage to food and a number of problems caused by it: mechanical contamination of food, transmission of infection, etc.

Representatives of the Defender also noted problems with postal delivery in penitentiary institutions. In particular, mail delivery in the "Artik" penitentiary institution was organized only on

Mondays and Thursdays. From the study of the complaints presented to the Human Rights Defender, they were delivered to the Defender a long time after being compiled by persons deprived of liberty and handed over to the administration of the penitentiary institution.



Short-term meeting room

During the monitoring visits, information was also received that "Haypost" CJSC does not deliver parcels to "Artik" penitentiary institution without justification. It is very concerning that in such a situation, persons deprived of their liberty are not able to obtain the things or food they need both in the territory of the penitentiary (the previously functioning kiosk has stopped functioning) and through postal delivery. The lack of a kiosk is also problematic in the case of "Sevan" penitentiary institution.

RA Minister of Justice informed that the issue of postal shipments of persons deprived of their liberty, parcels from post offices to penitentiary institutions, is being discussed with "Haypost" CJSC.

Therefore, it is recommended to:

- ✓ ***take steps to improve the road sections adjacent to the penitentiary institutions;***
- ✓ ***at the entrance of the penitentiary institutions, near the checkpoint, provide a separate waiting room for visitors with appropriate furniture, taking into account their applicability in different weather conditions;***
- ✓ ***in case of organization of simultaneous short-term detentions, to ensure the possibility of separation of persons deprived of their liberty and their relatives;***
- ✓ ***plan a separate outing for those who have come for a long visit, including minors;***
- ✓ ***provide children's rooms adjacent to the rooms of long-term visitors, properly furnished, renovated and with sufficient sanitary and hygienic conditions, providing them with toys and accessories necessary for children of different age groups;***
- ✓ ***post appropriate guidelines for calling the "hotline" phone number of the HRDO near all payphones installed in penitentiary institutions;***
- ✓ ***immediately, but not later than within 24 hours of the day, the persons deprived of their liberty shall be obliged to send complaints to the Human Rights Defender.***

- ✓ *take steps to solve the problems related to the delivery of parcels to penitentiary institutions and to properly organize the delivery of parcels;*
- ✓ *take steps to organize the operation of kiosks in penitentiary institutions.*

4.12. Ensuring the right to education of persons deprived of their liberty

The problems of realizing the right to education of persons deprived of their liberty have been repeatedly addressed in the annual and ad hoc reports of the HRD as a national preventive mechanism

In order to ensure the right to education of persons deprived of their liberty, for the purpose of teaching new knowledge and work skills to the detainees kept in penitentiary institutions, during 2023, formal general educational, professional, as well as informal educational programs were implemented in penitentiary institutions. :

General educational programs in penitentiary institutions are implemented by the "Legal Education and Rehabilitation Programmes Implementation Center" SNCO. According to information received from the Ministry of Justice, during 2023, 138 detainees were involved in general education programs implemented in "Ar Mavir", "Nubarashen", "Sevan", "Artik", "Abovyan" and "Vanadzor" penitentiary institutions. Within the framework of persons deprived of their liberty under the age of 19, inclusion in public education programs was also limited, in particular, in 2022-2023. During the academic year, 10 people participated in the general educational program, and another 10 people were involved in 2023-2024.

According to the information provided by the Ministry of Justice of RA, during 2023, 8 persons deprived of their liberty received higher and post-graduate education.

According to the information obtained during the visits to the penitentiary institutions, the convicts are not particularly enthusiastic about their participation in general educational programs. Participation in these proceedings is mostly formal in nature, and often the goal of convicts is to obtain the necessary points for considering the issue of conditional early release. Moreover, information has been received that, considering the student's right to be absent from courses for a maximum of 200 hours during the academic year, the defaulters generally do not attend the courses.

It is a documented systemic problem that only convicts are provided with the opportunity to receive education in the penitentiary institution.

According to Article 13 of the RA Law "On Arrested and Detained Persons", the Detainee also has the right to:

- 1) get an education, engage in creative work

According to paragraph 76 of the Annex to the RA Government Decision No. 543-N of 2022, the administration of the Penitentiary Institution undertakes measures for the formal education of the detained person or convict, with general education, professional and higher education programs (remote, part-time, remote forms), as also in the direction of organizing non-formal education in accordance with the law.

According to Rule 60.4 of the European Prison Rules, in any place of deprivation of liberty, access to educational programs must be ensured for all persons deprived of their liberty, ensuring their versatility as far as possible and taking into account the individual convictions and wishes of the person.

However, the legal regulation provided for by Article 18 of the RA Law "On Education" provides for the opportunity to receive education in a penitentiary institution at the expense of state budget funds only for convicts.

According to Article 18 of the RA Law "On Education", the age limit specified in the first paragraph of Part 7 of this Article (until the student turns 19) does not apply to convicts serving prison terms in penal institutions on which there is more than one year remaining at the time of submission of a written application regarding the exercise of the right to education. The persons mentioned in this paragraph can exercise their right to education (get secondary education) at the expense of the state budget of the Republic of Armenia.

From the right of the detainee to receive education, the positive duty of the state is to ensure the necessary conditions for the realization of the right to education of the said person.

Considering the above, it is necessary to make legislative changes in the RA Law "On Education" in order to make the opportunity to receive education accessible to all persons deprived of their liberty in a proper manner.

During the monitoring visits, the rooms intended for the implementation of courses in penitentiary institutions were analysed. The rooms which were analysed were generally properly furnished, the persons deprived of their liberty were provided with books and stationery necessary for proper education ("Artik" penitentiary institution).

During the visits, the working conditions of the teachers were also analysed. It is especially important that teachers, due to their low salary, often have to combine their work with work in public schools, which, according to the latter, is physically and emotionally exhausting. The above situation can negatively impact the effectiveness of teachers' work.

Another issue is the insufficient number of teachers working in penitentiary institutions. For example, in the "Artik" penitentiary institution, several subjects were taught by one teacher (one teacher taught both English and geography, another teacher taught mathematics, geometry and physics). During private interviews, the teachers said that this is due to the fact that the pedagogues are not enthusiastic about the desire to work in a penitentiary institutions and teach children deprived of their liberty .

Therefore, it is necessary to encourage the involvement of pedagogues in educational programs organized in penitentiary institutions by providing social guarantees or by other means.

According to the information provided by the RA Minister of Justice, during 2023 professional and informal educational programs were also implemented in the penitentiary institutions. Thus, within the framework of the "Aesthetic Education and Education of Offenders" program, "Abovyan", "Artik", "Armavir", "Nubarashen", "Vardashen", "Vanadzor", "Sevan" and "Goris" penitentiary institutions were pardoned. There are the following courses: "Decorative applied arts (stained glass, collage, pottery, batik, drawing,)", "Computer skills", "Ethics and communication", "Foreign language (Russian and English: levels: A1, A2, A2+, B1)", "Fundamentals of Armenian Language and Speech Culture", "Prevention of Domestic Violence (Emotional Management)", "Hairdressing Skills", "Sewing Basics", "Furniture Basics", in which, in total, around 185 persons deprived of their liberty participated.

During the year 2023, courses were also organized by non-governmental organizations in penitentiary institutions. For example, from September to December 2023, "Nor Serund" humanitarian NGO, "Abovyan", "Armavir", "Convict Hospital", "Artik", "Goris", "Vanadzor", "Vardashen", "Nubarashen" and "Sevan" penitentiary institutions conducted one-day informational courses aimed at imparting knowledge on HIV and STD, hepatitis, tuberculosis, methadone substitution treatment and the right to health, which was attended by 191 prisoners

It is welcome that according to the received information, during 2023, the Penitentiary Service, in cooperation with the chess academy, organized intra-institutional and inter-institutional chess tournaments in all institutions. The convicts who won in them formed a national chess team of convicts. The 5 members of the team were trained online by the FIDE master and trainer for about 8 months, after which the team participated in the chess championship for convicts under the title "Chess for Freedom".

However, during visits to penitentiary institutions, persons deprived of their liberty expressed their concern regarding the absence or infrequent and short duration of vocational education programs.

Thus, during the visit to the "Sevan" penitentiary institution, information was received that a furniture-making course was conducted in the institution, which was not completed due to the refusal of the specialist to work.

At the time of the visit, no professional educational programs were implemented in "Artik" penitentiary institution. A pottery course was organized in the penitentiary institution, which, however, was included in the general education subject program, as a result of which not all persons deprived of their liberty who expressed a desire had the opportunity to participate in that course.

Another recorded issue is the question of matching the schedule of educational employment of a person deprived of liberty with the work schedule of a person deprived of liberty who is employed.

In such a case, those persons deprived of their liberty, who are involved in general educational programs and at the same time have the desire to work, are actually deprived of the opportunity to work in the penitentiary institution as a full-time or part-time employee. This can have a demotivating effect on those deprived of their liberty working in a penitentiary institution, who are involved or have a desire to be involved in educational programs organized in the penitentiary institution. For example, in the "Artik" penitentiary institution, the courses were held within the framework of general education programs in the period from 11:00 to 18:00, which created difficulties in combining education and work activities of persons deprived of their liberty.

According to Rule 28.4 of the European Prison Rules, education should have an equally important status in a penitentiary and inmates should not suffer financial or other negative consequences for participating in educational programs.

According to Rule 105.4 of the European Prison Rules, in cases where the convict participates in educational or other programs during the working hours according to the established regime, the latter must be paid as he would have been paid if he had been working during the given period. :

Therefore, it is recommended that:

- ☐ ensure access to educational programs for all persons deprived of their liberty;
- ☐ to organize periodic, targeted and multidisciplinary educational programs and professional courses in penitentiary institutions, continuously promoting the participation of persons deprived of their liberty in these programs;

- by providing social guarantees or by other means, to encourage the involvement of pedagogues in the educational programs organized in the penitentiary institution;
- take steps to align the schedule of educational employment with the work schedule of persons deprived of their liberty who are employed.

4.13. Employment

Providing employment and necessary work to persons deprived of their liberty in penitentiary institutions contributes to their resocialization, ensuring the smooth process of the reintegration process in society and prepares them for their release. Lack of employment in penitentiary institutions can cause strained interpersonal relations, lead to behavioral and emotional deviations and outbursts, which can directly affect the discipline of persons deprived of their freedom.

As a result of the monitoring and research conducted during 2023, problems related to adequately providing work and employment to persons deprived of their liberty in penitentiary institutions were recorded.

Thus, according to the information provided by the Ministry of Justice of the Republic of Armenia, persons deprived of their liberty were engaged in various types of work during 2023. In particular, the latter were involved in technical and economic service paid and unpaid work, in self-made associations, and also worked for other employers on a temporary basis.

According to the Ministry of Justice of the Republic of Armenia, during the year 2023, the number of technical and economic positions in criminal execution institutions was 139, of which 65 positions were vacant.

As can be seen from the mentioned statistical data, a significant part of the positions of the convicts involved in the technical and economic works in the penal facilities are vacant, which is worrying. In this regard, it is necessary to take appropriate measures to fill the above-mentioned vacancies.

According to the information received from the Ministry of Justice, in 2023, detained persons were not included in paid jobs at all, while 27 detained persons were included in unpaid work, not on weekends and for no more than 2 hours a day.

Being in penitentiary institutions should not be a waste of time. By employing a person deprived of their liberty, they acquire the necessary skills that can later contribute to their reintegration into society. It is also important from the viewpoint of re-socialization, because while working, a person develops a respectful attitude towards work, norms of coexistence and representatives of society. Work is also important from the viewpoint of developing law-abiding behavior.

It is noteworthy that in the framework of the conducted monitoring visits with the representatives of the HRD and during the following private conversations, the persons deprived of their liberty raised questions related to the lack of work and jobs in the penitentiary institution. Thus, for example, a prisoner deprived of his liberty in the "Artik" penitentiary institution stated that in the penitentiary institution it was possible to be involved only in the technical and economic works of the institution, which mainly involve cleaning, food distribution and laundry.



Gymnastics

Persons deprived of their liberty stated that they would be happy to engage in other jobs in the penitentiary apart from the daily maintenance work. From the viewpoint of ensuring the employment of

persons deprived of their liberty, the existence of a library and a library in the penitentiary facilities is also important.

Persons deprived of their liberty worked in the observed penitentiary libraries. Both Armenian and foreign language literature was present in the libraries. The libraries were mostly stocked with literary, religious and scientific literature, but the codes and other legal acts, the need of which was often expressed by persons deprived of their liberty, were absent.

The libraries of the penitentiary institutions were also not provided with technical equipment and electronic literature.

During the monitoring visits, it was recorded that sports, cultural and religious events were also organized in the studied penitentiary institutions.

According to the information provided by the Minister of Justice of the Republic of Armenia, during 2023, a total of 283 events were held in penitentiary institutions, of which 100 sports events (1235 people participated), 107 cultural events (1541 people participated).

According to the information received from the Ministry of Justice of the Republic of Armenia, during 2023, employment cells or zones were also formed in the penal institutions, where about 113 persons deprived of their liberty were involved in creative work.

In order to meet the needs of people deprived of their freedom, the Armenian Apostolic Church has regularly conducted visits, talks on various topics, and on holidays, festive performances. In total, 76 religious events were held in the penitentiary institutions, in which 1180 people participated.

It is important that the means of monitoring the employment of persons deprived of their liberty in penitentiary institutions should be diverse, and the range of interests and abilities of the person should be taken into account as much as possible, which can have a positive impact on their resocialization.



Restroom and gymnastics room

During the monitoring visits, it was also recorded that in some cases, the means of employment in different buildings of the penitentiary institution differed significantly from each other, and the employment of persons deprived of their liberty was ensured in different ways.

Thus, rooms equipped with sports equipment were located in the IV and V buildings of the "Artik" penitentiary institution. In one of the rooms there is a table and a boxing "weight", and in the other - exercise equipment. At the same time, the rooms were in need of repair, and the equipment installed there was quite old (for example, the hand-held "pear" was repaired using a plastic bag). Even artificial lighting was missing in one of the rooms.

At the same time, the room set aside for the same purpose on the 3rd floor of building V was radically different from the room described above. The said room was fully furnished and renovated, had a laminate floor and suspended ceilings, a billiard table, music tape recorder, speakers, television, chess and lotto, as well as a washing machine were placed there. There were also scarecrows on the floor and hanging on the walls in the room. In one corner of the room there was a table with holy food.

This is worrying from the viewpoint of equal rights of persons deprived of liberty and equal opportunities for their realization.

Thus, in order to ensure the employment of children deprived of their liberty, as well as their effective reintegration into social life after serving the sentence, it is necessary to:

- to increase the involvement of persons deprived of liberty both in the life service of the penitentiary institution and in other possible works, taking into account their abilities, profession, gender, age and other important circumstances;
- increase targeted occupations for juveniles detained in penitentiary institutions, including work, regular and targeted educational programs, and vocational classes;
- provide the the library of penitentiary institution with technical equipment and electronic literacy, as well as supplement it with codes.

4.14. Organization of social, psychological and legal work for persons deprived of liberty

For the mental stability of persons deprived of their liberty and their reintegration into society, the psychological support provided to them is of utmost importance. Moreover, ineffective professional support can lead to negative consequences for the person.

The studies conducted during 2023 prove that the issue of social, psychological and legal work with persons deprived of their liberty in penitentiary institutions continues to be problematic. The above-mentioned works need to be improved in order to adapt to penal institutions, to effectively prevent conflicts within institutions, to assess individual risk, to transform the value and behavioral approaches of convicts, to prepare them for reintegration into society, and to achieve an effective solution to other issues.

As a result of the studies of Representatives of the Defender, it was recorded that the availability of psychologist and social worker vacancies in penal institutions continues to be a problem, which does not contribute to the proper provision of psychological support to persons deprived of their liberty, as well as the proper organization of resocialization programs.

According to the information provided by the Ministry of Justice, there were vacant positions of psychologists in the penitentiary institutions, in particular, there were no psychologists included in the

"Goris" and "Hospital of Convicts" penitentiary institutions, where one psychologist position is planned. In "Nubarashen", "Artik" and "Va nadzor" penitentiary institutions, during 2023 one position of psychologist was vacant, in "Armavir" penitentiary institution - two. In "Vardashen", "Sevan", "Abovyan", "Yerevan-Kentron" penitentiary institutions, the planned one-time positions of psychologist were filled. At the time of the monitoring visit, the position of psychologist at "Sevan" penitentiary institution was vacant.

It should be emphasized that in 2023, the post of social worker of the "Vardashen" penitentiary institution, as well as one of the three planned posts of the "Armavir" penitentiary institution, were also vacant.

The above circumstance is concerning in the context of a number of social issues facing persons deprived of their liberty, as well as a number of problems arising in the process of their resocialization.

It is obvious that the availability of psychologist vacancies is problematic from the viewpoint of providing competent, consistent psychological services to persons deprived of their liberty.

Taking into account the need to carry out psychological and legal work with persons deprived of their liberty in the process of refusing food, in order to stop them from refusing food, as well as the importance of psychological work with persons deprived of their liberty kept in isolation in penitentiary institutions, the vacant positions of psychologists in penitentiary institutions, as well as the activity of one psychologist in the entire penitentiary institution, or the absence of a psychologist in general, becomes more problematic.

The small number of psychologist posts is concerning both from the viewpoint of the workload of psychologists in penitentiary institutions and the quality of psychological services provided to persons deprived of their liberty.

Taking into account the above, it is necessary to take active steps in the direction of staffing the positions of the psychologist with relevant knowledgeable and competent professionals.

Within the scope of the monitoring visits, the conditions and staff rooms for the provision of psychological services were also observed.

In the monitored "Sevan" and "Artik" penitentiary institutions, there were no separate rooms for the provision of psychological services, and in the "Vardashen" penitentiary institution there was only one work room.

The absence of separate rooms for psychological work in penitentiary institutions is an obstacle in terms of organizing these works and can cause problems related to both the organization and the provision of quality professional help.

According to the provided information, in the "Sevan" penitentiary institution, the psychologist provides psychological services in the short-term observation room, in the wet room next to the video call room, or in the main room, which is located in the residential area. In order to carry out individual psychological work, the selection of the above-mentioned rooms was made according to occupancy, necessity and expediency.

It is noteworthy that although there are obstacles in terms of the organization of special psychological work in the "Vardashen" penitentiary (the insufficient furniture of the psychologist's office, the psychologist's work with the convicts in the mild and low danger zone of the medium danger zone) (i.e., working in the library), the psychologist provided the important scientific components for the effective organization of psychological work, which contributes to the creation of a more friendly and

safe atmosphere between the psychologist and the visitor, as well as to the increase of the effectiveness of psychological work.

As part of the monitoring visits, the disease-determining methodological packages in the penitentiary institutions were also studied.

It is welcome that the diagnostic methodological package intended for a person deprived of liberty in the "Vardashen" penitentiary institution was comprehensive enough, which allowed to make entries in the relevant sections of the "Individual card of the detained person and convict".

In the other penitentiary institutions studied, the package of diagnostic methods needed to be replenished and properly applied ("Sevan" and "Artik" penitentiary institutions).

Referring to the records of the works carried out by the employees of the Department of Social, Psychological, and Legal Works (hereinafter referred to as "SPLW"), it should be noted that they did not contain any narrow professional descriptions characterizing the course of these works, information on the particular scientific methods and methodologies used and on their results or obstacles to their implementation, as well as on the further progress and results of the planned works.

Thus, the notes made by specialists are of a typical and formal nature, the complete and substantive description of the performed works is missing in the documents on persons deprived of their liberty. The proper execution of records on completed or planned labor can contribute to a more flexible and targeted organization of further work with a person deprived of liberty.

Within the framework of the above, it should be noted that psychologists working in penitentiary institutions, as well as other employees of the "SPLW" department, regularly voiced the need to fill in a large amount of documents during the working day, which, in the case of the latter, may have a negative impact on their efficiency.

According to the received information, the employees of SPLW department regularly participate in training programs, which is welcome.

It should be noted that the participation in the trainings and their suitability for the purpose were also highly appreciated by the employees.

Referring to foreign citizens in penitentiary institutions, it is necessary to note that the latter have difficult communication skills, which also implies complex skills during the psychological work carried out with them.

The psychologist has to communicate with detainees and convicts who do not know Armenian through the mediation of a third person (another person who knows the given language), which from a professional viewpoint can be an unprofessional and unprofessional approach.

Thus, the organization of psychological work with persons deprived of liberty who do not speak Armenian is not effective and does not serve its purpose.

Summarizing the above, it is necessary to:

- to take active steps to fill the positions of psychologists and social workers in educational correctional institutions with competent specialists with relevant knowledge;
- to revise the positions of psychologists in penal institutions, in accordance with the set of inmates deprived of their liberty kept there, as well as the amount of necessary psychological support, pre-estimating the necessity of the provided services;
- to provide separate offices for the provision of psychological services;

- in all penitentiary institutions to properly carry out the study of the social and psychological characteristics of the offender, diagnosis and assessment of needs, to ensure the use of an appropriate diagnostic methodological package;
- to review the form and content of filling out documents regarding persons deprived of their liberty, properly recording the psychological work carried out in the relevant documents;
- ensure the provision of appropriate in-depth psychological support to foreign citizens.

4.15. Combating criminal subculture in penitentiary institutions

Within the framework of the National Preventive Mechanism, studies are being conducted on the criminal subculture existing in penitentiary institutions, the spread of its influence and the issues of public danger, which were recorded in the Human Rights Defender's ad hoc public report "Concept of combating criminal subculture in penitentiary institutions of the Ministry of Justice of the Republic of Armenia", as well as in the annual reports on the activities of HRD as a National Preventive Mechanism.

The influence of the criminal subculture in the penitentiary institutions was also recorded during the monitoring visits carried out in 2023. In particular, during the private conversations with the representatives of the Defender, the persons deprived of their liberty stated that the groups carrying the criminal subculture continue to have a great influence in the penitentiary institutions. According to the information of the persons deprived of their liberty, persons endowed with a criminal status and interpersonal hierarchical relations (thieves in law, criminal authorities, "zone watchers") continue to play an important role in the "management" of the penal institution, and a large number of convicts and detained persons to act in accordance with the rules of conduct defined and recognized by the gangs carrying the criminal subculture.

According to the above, the existence of the most well-developed accommodation and cells in the penitentiary institutions, where the criminals carrying the criminal subculture were kept, received attention. There was a distinctive property in the above-mentioned cells or dwellings: the bed, sofas and armchairs, the presence of large-diameter flat-screen TVs, wardrobes, sports equipment, etc.

Thus, in the "Sevan" penitentiary institution, the end part of the accommodation is separated from the rest by curtains, where one or two death beds, as well as sofas, armchairs, TV, musical and other furniture are installed.

In the context of the above, it is necessary to mention that during the visit to "Sevan" penitentiary institution, some convicts also expressed their displeasure with the placement of a larger number of convicts in the facilities of the institution, noting that their relatives, taking into account the manners accepted in the institution, they are forced to bring the gifts in such a way that their content will satisfy all the people kept in the prison, which is one of the manifestations of the subculture.

It should be noted that some cells in the "Artik" penitentiary institution also differed significantly in terms of detention conditions and interior furnishings. In particular, some cells were furnished with sofas, armchairs, wall carpets, wardrobes, TVs, in the event that there were cells in the same building

with a high level of humidity, their walls were damp in some areas, the plaster of the walls and ceiling has fallen off, the walls have holes, the linoleum or wooden floors are very worn. Some cells did not have lockers, and inmates kept their personal belongings, including handouts, under the carpet or in the corner of the room.

The apparently unequal detention conditions and furnishings in the penitentiary institutions give grounds to assume that the institutions still have a different approach and more improved and equipped cells are provided to persons with a criminal subculture.

In the 2021 report on the visit to Armenia, the CPT also addressed the issues related to the criminal subculture in the penitentiary institutions. In particular, the CPT recorded that some persons deprived of their liberty, who did not have outward health problems, were kept in the "Hospital of Convicts" penitentiary for a long time (up to 6 years), obviously in much more comfortable conditions (generally Some of the wards closer to the entrance to the therapy department were spacious, bright, warm, well renovated, equipped with comfortable beds, high quality furniture, log rooms, tiled floors, etc.).

The CPT noted that the "Hospital of Convicts" penitentiary for the above-mentioned persons deprived of their liberty (who obviously belong to the ranks of persons with the highest status of the criminal justice system) served as a "luxurious hotel", but not a place where the latter can receive medical care and service.

Placement of persons deprived of their liberty in accommodations, more than the number provided by the legislation, leads to difficulties in the formation of positive interpersonal behavior, hindering the fight against the criminal subculture in penitentiary institutions.

During the monitoring visits, some persons detained in penitentiary institutions avoided contacts with the representatives of the Defender or tried to organize a private conversation in the presence of other persons deprived of their liberty or within the hearing limits, which in the future will lead to the problems of accountability of the persons carrying the culture on their conversations. to avoid. Sometimes, before having a private conversation with the representatives of the National Preventive Mechanism, the latter discussed the issues raised by them and agreed with the members of the subculture of the buildings.

In this regard, it is necessary to rule out the provision of any illegal privileges and a differentiated approach to persons deprived of their liberty.

It should be noted that in connection with the issue, the staff of the Human Rights Defender implemented a complex of recommendations aimed at eliminating the favorable conditions for the existence of the criminal subculture, reducing the influence of the subculture and its prevention, which was summarized in the report of the Human Rights Defender "Crime of the Ministry of Justice of the Republic of Armenia" There are crimes in correctional institutions in the report on the fight against subculture.

Articles 322-325 of the new Criminal Code of the Republic of Armenia adopted on May 5, 2021 establish responsibility for the following acts:

- giving or receiving or maintaining a higher status in the criminal hierarchy,
- creating or leading a group carrying a criminal subculture,
- participating in or engaging in a criminal subculture group,

■ Addressing a member of a criminal subculture group or a person with a higher status in the criminal justice system.

The Human Rights Defender has repeatedly stated that while accepting in principle the legislative changes implemented in the direction of the criminal policy aimed at preventing the criminal subculture, its influence and spread, nevertheless, there are problems in terms of the certainty of the regulations defined in the Criminal Code regarding the connection of the criminal subculture. In this regard, it is particularly important to develop and improve the relevant scientific and theoretical tools and studies, as well as the continuous implementation of relevant training courses for investigators, prosecutors and judges, which will allow to avoid practical problems related to the qualification of the above-mentioned criminal acts in law enforcement practice.

Thus, a multi-faceted approach to the criminal subculture in the penitentiary institutions should be taken, taking clear practical steps, as well as continuously improving the legislation and its implementation practice. At the same time, during the fight against the criminal subculture, it is necessary to ensure the proper realization of human rights and the fundamental principles of equality of all before the law.

As a result of the studies, the following important areas requiring practical steps in terms of reducing the influence of the criminal subculture in the penitentiary facilities were highlighted:

- 1) the snow system of the penitentiary system,
- 2) work with persons deprived of liberty,
- 3) education and employment of persons deprived of their liberty,
- 4) general conditions of detention.

Thus, the staff of the penitentiary institution, which, along with other functions, ensures the discipline of persons deprived of their liberty in the institution, is of key importance in the fight against the criminal subculture.

Correctional officers face a number of obstacles and challenges while fulfilling their mission of maintaining discipline in the institution. Therefore, it is necessary to make proper efforts and invest resources in the direction of staffing the administration and sufficient number of buildings, providing social guarantees and proper working conditions for employees, as well as organizing their professional training.

It is also important to emphasize that the cornerstone of the operation of the penitentiary system should be a respectful, human rights-based, ethical attitude towards each person deprived of liberty, which contributes to the formation of an atmosphere of mutual trust. This is an important prerequisite for the effective management of the penitentiary institution, which can significantly reduce the role of persons with criminal sub-training.

In this sense, satisfying the basic needs of those deprived of their liberty by the current indicators of the public authority creates a respectful attitude towards them and an atmosphere of trust. Therefore, the basic and legal demands of persons deprived of their liberty must be satisfied by the state.

At the same time, it is necessary to exclude the granting of any illegal privilege to persons deprived of their liberty and to strictly observe the principle of equality of all before the law defined by Article 28 of the RA Constitution. Failure to observe this principle undermines the principles of the rule of law and the rule of law. Under such conditions, a person carrying a criminal subculture easily gains a privileged status and spreads informal relations throughout the institution.

In order to reduce the impact of the criminal subculture, the implementation of resocialization activities with persons deprived of their freedom in penal institutions, the offered educational opportunities and the provision of employment are essential. Such opportunities will promote the formation of a respectful attitude towards people, society, coexistence norms and traditions, as well as the manifestation of law-abiding behavior among persons deprived of their freedom. It is especially important to carry out ongoing social, psychological and legal work with those who do not associate with the criminal subculture or "reject" it.

Apart from the practical steps, it is necessary to revise some structures of the existing legislation. Legal gaps and unclear regulations can cause wide discretion of state bodies, corruption risks, and are also used by representatives of the criminal subculture to strengthen their influence and position.

In this regard, legislative changes should be implemented in connection with the following issues:

- 1) deprivation of liberty as an exceptional measure,
- 2) individual risk assessment,
- 3) on the basis of risk assessment, the distribution of persons deprived of liberty according to penitentiary institutions, types of security zones and cells,
- 4) implementation of an effective and predictable system of incentives and penalties,
- 5) improving communication with the outside world,
- 6) conditional early release from serving the sentence.

Discussing the issues of legislative regulation, first of all, it should be noted that from the point of view of preventing the spread of the criminal subculture and its influence, it is important to limit the access of criminals to the penal facilities as much as possible by using alternative punishments and deterrents to imprisonment, initially excluding the person with the criminal subculture. the collision

It is also necessary to periodically carry out an individual risk assessment of persons deprived of their liberty, which will allow to identify persons with a high risk of becoming involved in criminal activities. At the same time, evaluations are very important for developing programs of correction of persons, carrying out necessary work with them and reintegrating them into society.

However, according to the current RA penal legislation, there is no effective system for evaluating the condition of persons deprived of their liberty or for the assessment of positive or negative behavior, which is an important tool for managing the penal institution and preventing the spread of the criminal subculture.

Therefore, it is necessary to introduce in the penal law a stable structure of constant assessment of the riskiness of persons deprived of their liberty and their behavior based on clear criteria.

The system of incentives and penalties is also important from the viewpoint of maintaining order in the penitentiary. It should provide an opportunity to address the challenges faced by the criminal subculture and those who carry it. It is also important that the measures of encouragement produce real beneficial consequences for the person that are foreseeable for the person deprived of their liberty. In other words, a person should be aware of what actions and inactions or behavior he will be encouraged for, and what actual beneficial consequences the resulting incentive will have for him.

By the same logic, the issue of applying penalty measures should be resolved. Persons deprived of their liberty must be fully aware that association with and participation in the criminal subculture and performing prohibited activities within it (for example, organizing or participating in gambling) has

adverse consequences that will prevent parole and a lower level of security. in the issues of moving to the gas-free zone.

It is also important to maintain contact with the outside world of persons deprived of their liberty. Close family ties have a direct impact on inmates' well-being, desire to return to their families, and behavior in custody, which in turn keeps them from re-offending and being affected by the criminal subculture.

At the moment of deprivation of liberty and during the entire period of serving the sentence, the person's requirement remains to be released as soon as possible and to return to society. This desire and the latter's expectations about it are very important factors in the manifestation of positive behavior. Therefore, it is necessary to emphasize the importance of the institution of separating the parole from the punishment, the real possibility of which can be the greatest incentive from the viewpoint of the resocialization of the loser.

The Human Rights Defender considers it important to record that the above-mentioned steps against the spread of subculture in Penitentiary Institutions should be implemented in parallel, as they are mutually interconnected and complement each other.

At the same time, it should be emphasized that the spread of the criminal subculture is not limited only to prisons. It is widespread in the wider spheres of society, so it should also be reflected in the state's policy of fighting crime, implemented by the implementation of effective measures.

In summary of the steps taken in the context of combating the criminal subculture in penitentiary institutions, it is worth noting that during 2023, the Ministry of Justice of the Republic of Armenia took certain measures to ensure uniform conditions for detained persons and convicts. In particular, the feeding doors of all the cells of the penitentiary institutions, which were previously mostly open, were closed in accordance with the requirements of the legislation.

The Ministry of Justice has also taken steps to improve the conditions of detention of prisoners held in penitentiary institutions, in particular, to exclude the practice of repairing cells, which is important from the viewpoint of ensuring the uniformity of detention conditions, as well as the exclusion of differentiated or discriminatory treatment.

In connection with the above, the steps taken by the RA Ministry of Justice are welcome. However, it is necessary to show a systematic and consistent approach to combating the existing criminal subculture in penal institutions, taking measures aimed at reducing the role and influence of the criminal subculture in parallel, both at the practical and legislative levels.

4.16. Penalties and incentives in the penitentiary institutions

The penalty and incentive measures applied to persons deprived of their liberty, including the differentiated application of penalty measures in similar cases, the uniform policy of their application, as well as the reasons and justifications, continue to be the focus of the Human Rights Defender. The above-mentioned questions became the subject of study during monitoring visits to penitentiary institutions in 2023.

It should be noted that for decades, the penitentiary policy in Armenia contained only punitive elements, and the officers of the penitentiary institutions, while ensuring the execution of the punishment

in the form of imprisonment, emphasized mainly the regime of persons deprived of their liberty while serving the sentence in the penitentiary institutions, escape on prevention and ensuring discipline.

The obvious quantitative difference between the penalties and incentive measures applied in penitentiary institutions during 2023 (2009 penalties and 16 incentives) is a telling fact regarding the above.

According to the information provided by the RA Ministry of Justice for the period from January 1 to December 31, 2023, persons deprived of liberty in penitentiary institutions to be applied is 2,009 penalties, of which 102 are warnings, 954 are reprimands, 77 are deprivation of the right to use telephone or video calls, 29 are deprivation of visitation rights, and 847 are transportation to a prison cell.

Below are presented the penalty measures applied to the detained persons and convicts during the year 2023 and their number, according to separate penitentiary institutions.

Penitentiary institution	Warning	Note	Deprivation of the right to phone or video calls	Deprivation of visiting rights	Transfer from prison	Amount of penalty funds
"Armavir"	22	448	36	5	336	847
"Nubarashen"	50	192	22	10	90	364
"Sevan"	3	68	4	2	139	216
"Vanadzor"	4	55	9	2	100	170
"Hospital for the Convicted"	10	47	1	1	66	125
"Artik"	2	55	1	3	40	101
"Vardashen"	5	48	0	2	38	93
"Abovyan"	6	16	2	3	31	58
"Goris"	0	25	2	1	7	35

"Yerevan-Center"	0	0	0	0	0	0
Total	102	954	77	29	847	2009

As can be seen from mentioned statistics, during 2023, the most severe of the penalty measures, transfer from prison, was used quite often, and 847 (more than 42%) of the applied penalty measures in 2009 fall under it. The issue of the transfer to prison cell as a disciplinary measure as often and with huge numbers has been continuously raised in the annual reports of the Human Rights Defender on the performance of the National Preventive Mechanism, and **such a high rate of use of the disciplinary measure in the form of transfer to a prison cell is concerning.**

In 2023, 16 incentive measures were applied to persons deprived of their liberty, of which 11 were thanks, 4 were additional short-term visits, and 1 was the provision of an additional video call.

According to the information provided by the RA Ministry of Justice, applied during 2023, such a small number of incentives speak about the insufficient effectiveness of resocialization and rehabilitation programs. It should also be emphasized that compared to the previous year, the number of incentives applied decreased even more, from 25 to 16.

Applied incentives small amount and their general absence in 6 out of 10 of the existing institutions cannot in any way contribute to the proper re-socialization of persons deprived of their liberty, feminization and correction.

Thus, the statistics and analyzes presented above testify to the severe disproportionality and inflexibility of the application of penalties and incentives, as well as the lack of criteria for their effective application.

Penalties when referring to it, it is necessary to emphasize the issue of their justification. Thus, in the course of monitoring, by studying the decisions of 2023 on the transfer of persons deprived of their liberty to prison cells in penitentiary institutions, it was found that the majority of them refer to disobeying the legal requirements of penitentiary officers, damaging the property of the penitentiary, as well as prohibited items, in particular, keeping mobile phones. As a result of the analysis of the decisions on transfer from the prison, it became clear that the decisions of the heads of the institutions in terms of the time period of transfer to the prison in the penitentiary institutions were mostly not reasonable. In particular, the decisions lacked justifications regarding the proportionality of the penalty measure and the gravity of the violation committed by the person deprived of liberty, as well as justifications as to why it is not possible to achieve the goal pursued by the use of the penalty measure by using other types of penalty. The decisions also did not provide justifications regarding the period of application of the penalty measure.

In addition, it should be noted that in the decisions on moving similar prohibited items to the cell designated for keeping mobile phones in the "Sevan" penitentiary, the penalty measures applied to

various persons deprived of their liberty were different. For example, cases were recorded when persons deprived of their liberty were transferred from the prison for a period of 3, 5, 7, 10 or 15 days. In another case, one of the convicts was transferred to the prison cell for 5 days, and the other for 7 days, for unjustifiably not appearing for the quantitative registration of convicts.

In this regard, the decisions are limited only to the description of violations of the internal regulation by persons deprived of their liberty, without justifying the period of the imposed penalty, which is concerning and may lead to a differentiated approach in similar situations. Thus, the decisions on transfer from the prison do not reflect all the circumstances underlying the determination of the penalty measure, which may be appealed by persons deprived of their liberty.

It is welcome that the decisions of the Head of the "Vardashen" penitentiary institution were reasoned in terms of the period of transfer from the prison cell, and they contained proper justifications regarding the differentiated application of the duration of transfer to the prison cell. In the decisions, there was information about previously received fines or their absence, as well as whether they were paid or not.

According to Part 2 of Article 106 of the Penitentiary Code of the Republic of Armenia, the circumstances of committing a crime, the reasonable need to achieve the legal purpose pursued by the application of the penalty measure, the character of the convicted person and his behavior before committing a crime are taken into account when applying the penalty measures to the convict. The imposed fine must correspond to the severity and nature of the crime committed by the convicted person.

In connection with the above, it should be noted that the European Prison Rules 56.1, disciplinary measures must be applied as a measure of last resort, and according to the Rule 60.2, the severity of any penalty must be proportionate to the offense committed.

The CPT also addressed this issue, which emphasized that every case of transferring a person from a prison must comply with the principles of proportionality and legality, be necessary and non-discriminatory and be properly recorded. Under the principle of proportionality, the CPT has stipulated that any limitation of the rights of a person deprived of liberty must be related to the damage caused by the latter, and the longer the penalty measure applied to the latter lasts, the more it should be justified and reasoned.

According to the legal practice of CPT, taking into account the potentially extremely harmful consequences of keeping a person deprived of his liberty in solitary confinement, the principle of proportionality requires that the transfer of a person deprived of his liberty from prison as a disciplinary measure should be used only in exceptional cases and as a last resort, while possible in the shortest time frame.

Taking into account the transfer from prison as deprivation of liberty the conditions of the most severe punishment measure applied to the accused persons and their possible negative consequences, it is necessary to apply the transfer from the prison in extreme cases, in similar situations, to exclude any different approach, and in the decisions about transfer to the prison cell properly justify the length of the detention period.

During the visit to the "Artik" penitentiary institution, after studying the documents regarding the penalties applied to persons deprived of their liberty, it was recorded that two persons deprived of their liberty were assigned a penalty measure in the form of deprivation of the right to phone, respectively 20 days and 1 month duration. In another case, deprivation of visitation rights for a period of 1 month was applied to a person deprived of his liberty as a penalty.

According to the received information, under the condition of applying a penalty measure to the persons deprived of their liberty in the mentioned cases, the latter's ability to contact their family members was limited. It should be noted that in the decisions on the use of phone or video calls in the penitentiary institution, as well as on the application of penalties in the form of deprivation of visitation rights, no reference was made to the restriction of communication with the family members of the person deprived of his liberty, that is whether the restriction applies to any type of communication (including with family members) or not.

For persons deprived of liberty communication with the outside world is extremely important, and the latter must first of all have the opportunity to maintain relations with their families and close relatives.

The Rule 60.4 of the European Prison Rules states that sanctions must not include an absolute ban on contact with family.

According to Rule 43, Clause 3 of the Nelson Mandela Rules, disciplinary measures or restrictive measures shall not include a ban on family contact. The means of communication with the family can be limited only for a limited period of time and solely due to the need to ensure safety and order.

In paragraph 22 of the 2014 report of the CPT on Armenia, it was recorded that the Committee reaffirms its recommendation that the authorities of Armenia should take the necessary steps to ensure that all persons deprived of their liberty (such as those sentenced to life imprisonment, as well as others) should not be deprived of contact with the family during their stay in the prison cell, and that each limitation of contact with the family as a means of punishment should be applied only when the violation refers to that contact.

It should be noted that the domestic legislation, in compliance with international standards, does not distinguish the issues related to limiting the freedom of communication with the family of a person deprived of his liberty subjected to a disciplinary measure.

The domestic legislation does not provide legal regulations on which cases of the application of the penalty measure of the restriction of the rights to use phone, video calls and meetings is applied to communication with family members of a person deprived of liberty.

Thus, taking into account the international standards presented above, when applying a penalty measure in the form of depriving a person from the rights of using a phone, video calls or meetings, it is necessary to make the necessity and validity of the limitations of the latter's freedom of speech a subject of discussion, issues, applying the restriction of communication with the family of the person deprived of liberty only in exceptional cases and for the shortest possible period of time.

Based on the above, it is necessary to:

- ✓ ***review the system of penalties and incentives, introducing a flexible way of their effective application structure;***
- ✓ ***carry out a proper assessment of the behavior of persons deprived of their liberty, to apply measures of encouragement in cases of positive behavior, taking into account the resocialization measures offered in the penitentiary institution;;***
- ✓ ***exclude the differentiated application of penalties in similar cases, ensuring the unified policy for application of penalties;***
- ✓ ***in each case, to make a reasoned decision to transfer the person deprived of liberty from the prison, separately indicating justification of keeping the person in prison cell of that period;***
- ✓ ***review the practice of applying absolute limit of communication with a family member as a disciplinary measure for a person deprived of their liberty;***
- ✓ ***clearly establish in the legislative level the legal grounds for restricting the freedom of communication with the family members of the person deprived of liberty as a disciplinary measure.***

4.17. Temporary solitary confinement of persons deprived of liberty under protective or preventive measures

Problems were also recorded in the process of keeping persons deprived of their liberty in temporary isolation for protective and preventive purposes.

Thus, in the course of private interviews with the deprived of liberty in the "Sevan" penitentiary institution, it was also found out that the currently isolated convicts were kept in the prison regime until the decision to apply a retaliatory penalty against them was made; that is, their sleeping place was closed during the day. The mentioned is worrisome considering that the persons deprived of their liberty are actually kept longer in the prison regime than is later provided for by the corresponding decision of the Head.

In the "Artik" penitentiary institution, there were no separate cells for the temporary isolation of persons deprived of their liberty, as a result of which the prison cells were also used here as well. At the time of the visit, 2 more persons were kept in the prison cells, against whom no disciplinary measure was applied in the form of transfer to the prison cell, and they were separated based on their applications with decisions to keep them in temporary isolation for protective purposes. The said decisions have also become the subject of study.

As a result of the study of the decision regarding the isolation of the convict kept in isolation for protective purposes, it was found that it was made on September 12, 2022 by the Head of the "Hospital for the Convicted" penitentiary institution. In particular, it was mentioned in the said decision that according to the reference of the operative department of the "Hospital for the Convicted"

penitentiary institution, it is expedient to keep the convict separately from the detained persons and convicts who are kept and receiving treatment in the institution, because "The Hospital for the Convicted" has a problem with detained persons and convicts receiving treatment in the "Hospital for the Convicted" penitentiary institution.

"Temporary Isolation of Convicts and Arrested Persons" register revealed that after being transferred to the "Artik" penitentiary institution, from June 26, 2023, the latter continued to be kept in isolation based on the decision made by the head of the "Hospital for the Convicted" penitentiary institution. It is noteworthy that no decision was made regarding keeping the convict separately in "Artik" Penitentiary Institution.

It should be noted that a decision was made to keep the convict separately in the "Hospital for the Convicted" penitentiary institution on the grounds that the latter had problems with persons deprived of their liberty kept in the penitentiary, which indicates that "Artik" penitentiary after moving, the grounds for keeping the latter separately have disappeared. In such a case, however, in "Artik" penitentiary institution.

The above-mentioned decision on keeping in isolation for the purpose of detention, is not a subject of examination, as a result of which the convict continued to be kept in isolation for a long time in the absence of sufficient objective grounds to keep him in isolation.

In the absence of sufficient grounds, it is unacceptable to keep a person deprived of liberty separately in a penitentiary institution without a reasoned decision of the Head of the Institution.

From the study of the "Temporary Isolation of Convicts and Arrested Persons" logbook and the decisions on the separate keeping of persons deprived of their liberty, it became clear that a decision on the temporary isolation of a person deprived of their liberty is made in a penitentiary institution, on the basis of which the person deprived of liberty is sometimes, from 2 months to several years, it is kept in isolation.

During the visit, it was recorded that the decisions made as a result of reviewing the decisions to keep persons deprived of their liberty separately were absent in the penitentiary, therefore the issue of the necessity of keeping the person deprived of their liberty separately was not made a subject of discussion during the mentioned period of time, and steps were taken to ensure the safety of the person deprived of liberty by other means.

Thus, the decision to keep the convict in solitary confinement for protective purposes was made on September 12, 2022, after which he continued to be kept in isolation for more than 1 year and 2 months as of the day of the visit, and the decision to keep the convict separately - it was not reviewed at all in childhood account considered deprived of liberty the negative consequences of keeping a person in isolation on the latter, persons deprived of their liberty should be kept separately in exceptional cases, for the shortest possible period, and steps should be taken to protect their safety by other means, excluding long-term isolation of persons deprived of their liberty.

The Defender emphasizes that the practice of indefinitely keeping persons deprived of their liberty in a penitentiary institution is highly questionable.

According to the Article 78, Part 11 of the Penitentiary Code of the Republic of Armenia, the decision made in the case of protective custody is subject to review periodically, but no later than every fifth day after being separated. If, as a result of the review, the need to keep the person in isolation is confirmed, the Head of the penitentiary institution makes a reasoned decision about it, justifying the continuation of the need to keep the person in isolation and the impossibility of ensuring the safety of the person by other means.

In the case of Borodin v. Russia, the European Court of Human Rights noted that the duration of the applicant's solitary confinement for more than one year and nine months may have a certain impact on his mental health, increasing the risk of harmful effects. As a result, the Court recorded a violation of Article 3 of the European Convention on Human Rights (hereinafter European Convention).

In another case, the decision regarding the solitary confinement of a detained person kept in the prison cell building of "Artik" Penitentiary Institution was held on July 3, 2020, on the basis of which, as of the date of the visit, he was kept in isolation for about 3 years and 4 months.

It should be noted that the Head of the institution made a decision on the "Temporary Isolation of the Detained Person" regarding the detained person on the grounds that the latter is in a state of mental agitation. In connection with the above, it should be noted that the RA Law "On Arrested and Detained Persons" provides a legal procedure for keeping a detained person separate from other detained persons, rather than temporarily isolating them, and in cases where the latter's life or health is at risk.

During the monitoring visit, the representatives of the administration of the penitentiary reported that the detained person is kept in solitary confinement on the grounds that his life is in danger, but after examining the decision to temporarily isolate the latter, it was recorded that the decision does not reflect data on the existence of a threat to a person's life or health. Moreover, since 2020, the issue of the continued need to keep the detained person in isolation has not been discussed in general, and the decision to keep the detained person in isolation has not been reviewed.

In this regard, it should be noted that although the Penitentiary Code of the Republic of Armenia provides for procedures for keeping the convicted person in solitary confinement for preventive and protective purposes, in particular, time limits for keeping the convicted person in solitary confinement and the decision to keep him in solitary confinement, but not later than after being separated, every fifth day, a request to review, the RA Law "On Arrested and Detained Persons" does not provide for such a procedure for the isolation of detained persons in connection with cases of detention.

In particular, according to the Article 31, Point 9 of the RA Law "On Arrested and Detained Persons", detained persons are kept separately from other detained persons, whose life or health is in danger, in places where detained persons are held by the written decision of the administration of the place of detention or the body implementing the criminal proceedings. However, the mentioned provisions do not indicate the maximum duration of isolation of a person detained in a penitentiary, the legal procedures for regularly reviewing a decision on the isolation of a detained person, as well as the

direction of the penitentiary in the direction of eliminating the circumstances contributing to isolation duties of the administration.

Depending on the psychological characteristics of persons deprived of their liberty and the presence of mental health problems in the past, their social isolation can cause such mental disorders as depression, hallucinatory and delusional disorders, etc.

Therefore, the legislative requirement for the Head of the penitentiary institution to regularly review the decision to keep a person deprived of his liberty separately, as well as to take steps to eliminate the grounds for keeping him in isolation, is aimed at the exclusion of long-term social isolation of persons, taking into account its negative impact on their mental health.

The problem is that in compliance with the RA Constitution and the existing international acts on human rights, the legislator must guarantee equal rights and responsibilities to subjects of the same group normative fixation, and the positive constitutional duty of the state is to provide such conditions that will give equal legal opportunities to persons with the same status.

Although the range of rights and responsibilities of persons deprived of liberty in a penitentiary institution is determined by their judicial status, it is necessary to emphasize that long-term solitary confinement in a penitentiary institution has the same negative consequences for both convicts and detained persons, therefore objectively and there are no reasonable grounds for a differentiated legal approach to keeping the latter isolated.

Given the above, it is necessary to clearly establish in the legislative level the maximum duration of solitary confinement of detained persons, the legal procedures for regularly reviewing the decision on solitary confinement of the detained persons, as well as the responsibilities of the administration of the penitentiary institution in the direction of eliminating the circumstances contributing to their solitary confinement.

Considering the above: it is necessary,

- ✓ ***to rule out the practice of keeping temporarily isolated convicts in the penitentiary regime;***
- ✓ ***regularly, but no later than after being separated, to discuss the issue of the need to keep the person deprived of his liberty separated every fifth day;***
- ✓ ***to clearly enshrine in the legislation the circumstances underpinning the solitary confinement of detained persons, its maximum duration, the conditions of solitary confinement, as well as the responsibilities of the penitentiary administration in order to eliminate the circumstances conducive to solitary confinement.***

4.18. Decisions related to the use of physical force, special measures or weapons by law enforcement officers

As a result of the studies carried out in 2023, problems related to the use of physical force and special measures by employees in penitentiary institutions were recorded.

In practice, penitentiary officers may have to use physical force or special measures during the performance of their official duties. In this regard, it is crucial that the use of force, special means or weapons be legal, absolutely necessary in the specific circumstances and proportionate to the existing danger.

In order to understand the nature of the existing problems, first of all, it is necessary to refer to the regulations of the domestic legislation related to the issue under discussion.

Thus, the Article 47, Part 1 of the RA Law "On Penitentiary Service" stipulates that the penitentiary officer has the right to use physical force, special means and weapons in the cases provided for by the said law in case of not fulfilling the legal demands of the penitentiary officer or obstructing the performance of duties. Article 49 of the same law defines the grounds and conditions for using civilian weapons or special measures in penitentiary institutions, noting that spark plugs, electric shock devices, and gas guns can be used as civilian weapons. Rubber batons, handcuffs and ankle chains, distracting light and sound devices, barrier-destroying devices, water cannons or armored cars, service dogs, as well as harm to human health can be used as special measures every other non-causative measure.

According to the Point 256 of the Appendix to the RA Government's Decision N 543-N dated on April 13, 2023, in the event of the discovery of items subject to seizure during the search of other persons, personal inspection, personal inspection of a detained person or convict, or the inspection of a cell or accommodation, as well as during the search of clothes and things, a record of the discovery and taking of prohibited items shall be drawn up.

According to the information provided by the RA Ministry of Justice and the RA General Prosecutor's Office, physical force and/or special measures were used during 2023, in 7 out of 10 penitentiaries. There were no cases of weapons being used against persons deprived of their liberty.

Below is a digital picture of the physical force and special measures used in 2023 by penitentiary institutions.

Penitentiary institution	Physical strength	Special means (handcuffs, rubber baton)
"Vanadzor"	10	8
"Nubarashen"	10	3
"Hospital for the Convicted"	9	-
"Armavir"	3	4

"Sevan"	4	-
"Goris"	1	1
"Abovyan"	1	1

In this regard, it should be noted that the CPT has described the main criteria related to the use of force in the second general report of its activity in paragraphs 53 and 55, which were later revised and improved in the reports of the visits made to individual states.

According to CPT standards, report's analysis and comparison of the RA Ministry of Justice with the standards on using physical and special measures on persons deprived of their liberty in penitentiary institutions highlight several crucial problems.

Thus, there is concern regarding the proportionality of the use of force and special measures during the search gives rise to its inappropriateness a report. In particular, the analysis of 32 reports on the use of force and special measures in penitentiary institutions showed that the reports are typical, they often use verbose wording and, at the same time, highly evaluative and undisclosed expressions, such as "showed disobedience", "showed aggressive or inappropriate behavior", "gave incomprehensible curses", "made irregular movements", "slandered", "created a tense situation", "brought illegal reasons", "impeded the implementation of the service", "impeded the actions of the employees", "did not comply with the legal requirements", "explained the inadmissibility of the actions", "enough time was given to stop the actions " and so on.

Such expressions are vague, and in some cases it remains unknown what these actions were manifested in. From them, it is not possible to understand in any way how many minutes or seconds is considered as "enough time", what words and expressions are included in the term "slander" and so on.

This also indicates that penitentiary officers need training on the criteria for thorough reporting on the use of force.

During the searches in connection with the question of penitentiary officials wearing visible personal identification signs or logos, the RA Ministry of Justice has provided information to the effect that the officials of the Penitentiary Service system do not comply with their operational obligations during the implementation of the rules, they wear a uniform of the appropriate uniform template, the description of which is defined in the RA Government Decision N 776-L, dated on June 20, 2019 "On the description of the uniform, including the description of the outfit of law enforcement officers, the procedure for providing it, wearing it, terms and conditions". Due to the Ministry of Justice, according to the above-mentioned decision, personal identification signs or logos are not provided for the uniforms of the penitentiary officers. This is problematic from the point of view of identification of the latter and contradicts the standards of the CPT.

Referring to the weapons used, it should be noted that in recent years, in many of the member states of the Council of Europe, the police and some penitentiary agencies have been using different

types of electric (spark) stun guns for official use in order to restrain persons deprived of their liberty who use violence..

These weapons emit an electric current, either at close range or from a certain distance, they are intended as less lethal means than firearms, in particular, in line with the principle of gradually increasing the means used in dangerous situations.

Issues related to this type of weapon were discussed in the 20th general report on the activities of the CPT. The position of the CPT regarding the use of such weapons can be summarized as follows.

- Electrical (spark) ignition different types of weapons can cause sharp pain and be misused. The criteria for their application should be provided by law and detailed in sub-legislative regulations.
- When using them, you should keep of necessity, proportionality, the principles of forewarning (when possible) and caution.
- The officials to whom they allocated, should be adequately trained in order to be able to apply them correctly.
- If electric (e.g., sea) cluster weapons that can fire fragments, the applicable standards should be comparable to the performance standards of firearms.
- Their use should be limited to situations in which there is a real and imminent threat to life or risk of serious bodily injury, and when less forceful methods have already been used and have failed or their use is not practically possible. Under no circumstances should they be used solely for the purpose of ensuring the execution of an order.
- In enclosed spaces such as cells, they can only be used in very exceptional circumstances.
- Electric (spark) weapons must be equipped with appropriate devices, for example, memory drives that can record information, in particular, the exact time of application, duration, strength of the charge, and must also have video recording capabilities.
- Anyone who has been subjected to an electrical (spark) weapon should in all cases be examined by a doctor and, if necessary, examined in a medical facility.
- After each use need to organize a discussion as well as make a detailed incident report.

The CPT, during the visit to Georgia, emphasized in 2014 report that the use of electric (spark) shock devices (electric shock) can be justified in very extreme cases, when all other measures have failed, and when there is a real and immediate danger to life. Moreover, only specially selected and trained correctional officers should be allowed to use these devices, and all necessary precautions should be taken when using them.

In connection with the Human Rights Defender's questions regarding the number of electric shock devices and their provision with memory drives, information was received from the Ministry of

Justice that there are a total of 26 electric shock devices available in all penitentiary institutions, which are not equipped with memory drives.

According to the information provided by the RA Ministry of Justice, during 2023, special training courses were organized for penitentiary officers (including on the order, conditions and limits of using physical force, special means and weapons). However, the conducted studies show that there are still problems related to the use of physical force and special measures in penitentiary institutions.

In 2023, the "Sevan" penitentiary institution was completed during the visit, the conditions of keeping special funds in the institution were also studied. There were handcuffs, tear gas, a rubber baton and an electric shock device in the security department of the penitentiary. It is noteworthy that the tear gas was expired (the shelf life was until November 10, 2020). In this connection, it should be noted that the storage and even more the use of tear gas weapons can be harmful both for the user and for the person against whom it applies.

Thus, it is necessary to rule out the existence of expired special measures in the penitentiary institutions, as well as to take steps to destroy them by observing the relevant procedures.

At the same time, it should be noted that RA legislation does not envisage the cancellation of expired special measures. Therefore, within the framework of the RA legislation, it is necessary to establish regulations and corresponding procedures regarding the withdrawal of special funds.



Special measures

It should also be noted that in the course of 2023, complaints were received from the women deprived of their liberty in the "Abovyan" penitentiary institution, alleging that the search of the cells in the penitentiary institution was carried out by male agents. Persons deprived of their liberty, expressed their concern that during the search, a male offenders have access to their personal items, clothing, including underwear, feminine hygiene items, intimate items, which is humiliating. Moreover, sometimes during inspections, officers do not show enough care and concern for personal belongings, in particular, they are carried out by throwing personal belongings on the floor, bed, and shelves, which leads to contamination of things.

Based on the above it is necessary:

- ✓ ***to develop detailed guidelines for the use of force, special measures and weapons;***
- ✓ ***properly plan force, all special measures implying the possibility of using measures or weapons, including planned inspections;***
- ✓ ***to undergo a thorough analysis by the security department and the management of the relevant penitentiary institution of the use of force, special measures or weapons;***
- ✓ ***from each case of use of force, special measures or weapons, to prepare a detailed report by all employees and superiors participating in it, regarding the legality of its implementation, its absolute necessity in specific circumstances, and its strict proportionality to the existing danger;***
- ✓ ***to properly record physical injuries received by persons deprived of their liberty and penitentiary officers;***
- ✓ ***ensure, that the penitentiary officers participating in the planned searches wear visible personal identification signs and insignias, and the events are videotaped;***
- ✓ ***to develop clear standards for the use of electric shock devices and to form a penitentiary service proper trainings in that regard;***
- ✓ ***to organize similar training for penitentiary officers on the topics of de-escalation through speech, physical force, use of special meaasures and weapons and reporting on them;***
- ✓ ***to exclude the existence of expired special measures in the penitentiary institutions;***
- ✓ ***to define the cancellation of expired special measures regulations and develop appropriate procedures/orders;***
- ✓ ***to take steps to search the cells and personal belongings of women deprived of their liberty properly and by female officers.***

4.19. The prevention of cases of death, including suicide and self-harm in penitentiary institutions

European Court in its legal regulations on right to life has recorded that the state bears responsibility for the death of arrested, convicted persons or persons under the jurisdiction of the state. Competent state bodies are obliged to take all measures to prevent them, as well as for multi-faceted, complete and objective investigation of cases related to death.

According to the information provided by the RA Ministry of Justice, in the period from January 1 to December 31, 2023, 16 death cases were recorded in the penitentiary institutions, of which 14 were biological deaths and 2 were suicides.

8 of the death cases were recorded in civilian medical institutions, 7 in penitentiary institutions and 1 in an emergency medical service vehicle. Both cases of suicide took place in the "Armavir" penitentiary institution.

It should be noted that in penitentiary institutions the index of death, intentional suicide cases did not change significantly compared to the previous year, which is very concerning (in the course of 2022, 18 cases of death were registered, of which 14 were biological deaths, 3 were suicides, and 1 was murder). Such a high rate of deaths and suicides recorded in penitentiary institutions in 2023 testifies to a systematic approach by competent state bodies aimed at identifying and preventing their causes and contributing conditions.

In connection with the cases of death and suicide recorded in the penitentiary institutions, the Staff of the Human Rights Defender started discussion procedures on its own initiative, within the framework of which relevant letters were addressed to the RA Ministry of Justice, the RA Ministry of Health and the RA General Prosecutor's Office.

Ministry of Justice in its official clarifications stated that both persons deprived of their liberty kept in the "Armavir" penitentiary committed suicide by hanging themselves (with a rope or a shoelace), one in the penitentiary building of the institution, and the other in the quarantine.

The assessment of the risk of suicide and self-harm of persons deprived of their liberty when admitted to a penitentiary institution is of great importance in the prevention of suicides.

Thus, in accordance with Paragraph 319 of the Annex to the Decision of the RA Government N 543-N dated on April 13, 2023, the assessment of the risk of suicide and self-harm is carried out by the responsible duty officer (in case of impossibility, a person appointed by him) detained immediately, but not later than within 24 hours, after the transfer of the person or convict to the penitentiary institution.

Clause 321 of the Annex to the same Decision states that in the event that an average or higher than average level of risk is revealed in a detained person or a convict as a result of the assessment of the risk of suicide and self-harm, within 48 hours a psychologist (in his absence, a social worker) will carry out a suicide assessment, and in-depth self-harm risk assessment.

According to sub-point 7 of Point 22, sub-point 1 of Point 26, of Annex 1 of Order No. 279-N dated on July 13, 2016 of the RA Minister of Justice, from the moment of admission to a penitentiary institution, social, psychological and legal work must be carried out with all persons deprived of their liberty.

The implementation of appropriate psychological work with persons deprived of liberty is especially important at the initial stage of the person's appearance in the penitentiary institution (when the person is in the quarantine department of the institution). Psychological consultations are important

from the point of view of adapting to the conditions of the institution, as well as assessing the risk of the latter committing suicide and, if necessary, taking appropriate preventive measures.

Despite the fact that since 2022, the suicide and self-harm risk screening and assessment toolkit has been launched in penitentiary institutions, the conducted studies show that the effectiveness of its application is low.

It is noteworthy that during the conducted visits, the employees of the Department of Social, Psychological and Legal Work of penitentiary institutions did not consider it appropriate to use suicide and self-harm risk screening and assessment tools. The employees stated that the use of the tool does not cause any difficulties for them, it is simply of a formal nature. According to the latter, it is more appropriate to use the tool after working with the person for a certain period of time, in the presence of a deeper contact. It was also noted that some of the wordings in the tools, no matter how much they are processed by specialists, correspond to the speech, intellect, and level of willingness to contact persons deprived of their liberty, however, they may be perceived negatively by persons deprived of their liberty, angering them, thus affecting the results. In general, the use of suicide and self-harm risk screening and assessment tools was considered a waste of available resources and time.

Thus, the use of suicide and self-harm risk screening and assessment tools in the presence of appropriate legal bases is accompanied by problems and complications, which affects its effectiveness, necessary and sufficient studies and analyzes are not carried out in relation to death cases to reveal their causes, which would enable the competent state bodies to introduce more effective legal and practical structures aimed at preventing such cases.

The problem raised by the CPT that means of taking life (window bars, broken glass, belts, ties, etc.) should not be available to people at risk of suicide also remains unresolved.

The above mentioned is also evidenced by one of the suicide cases recorded in 2023, when a person who previously committed self-harms several times and went on a hunger strike, whose request to be kept in isolation was rejected due to his depressed state of mind and suicidal thoughts, and as a result of the assessment of the risk of suicide and self-harm, a risk management plan was drawn up, a multidisciplinary team was formed and strict and strengthened control was established.

Thus, a person with a high risk of committing suicide, for whom enhanced control was established, had shoelaces with him, which as a result became a "tool" for suicide. On the other hand, according to paragraph 326 of the Appendix to the RA Government's Decision No. 543-N dated on April 13, 2023, in case of revealing an average and higher than average risk of suicide and self-harm, arrested persons or convicts may, by reasoned decision of the Head of the penitentiary institution it is forbidden to have such things and objects that are not prohibited in a penitentiary institution, but with which a person can commit suicide and self-harm.

This also indicates the ineffectiveness of the screening and risk assessment tool for suicide and self-harm evidence of the above high rate of suicide attempts registered in penitentiary institutions according to which, during 2023, 22 people deprived of their liberty committed 29 suicide attempts. The digital data on suicide attempts in penitentiary institutions are as follows:

Penitentiary institution	Number of suicide attempts
"Nubarashen"	10
"Armavir"	9
"Hospital for the Convicted"	6
"Abovyan"	3
"Artik"	1

Referring to self-harms committed in penitentiary institutions, it should be noted that although the number of self-harms committed by persons deprived of liberty in penitentiary institutions decreased slightly in 2023 compared to the previous year (from 518 to 472) and the number of people committing self-harm (from 180 to 155), however, the indicators continue to be disturbing.

According to the information provided by the RA Ministry of Justice and the RA General Prosecutor's Office, in the period from January 1 to December 31, 2023, 472 cases of self-harm committed by 155 persons were recorded in penitentiary institutions.

According to the explanations provided, the reasons for self-harm committed by persons deprived of their liberty were mainly related to the decisions made by the body implementing the proceedings, the selected restraining measure, delays in court sessions, personal, family, nervous, emotional problems, health and problems with the medical staff, decisions made on parole after serving the sentence, building conditions of the penitentiary, transfer to the penitentiary, change of security zone, inspection, discovery of prohibited items, other cell, other penitentiary institution or "Hospital for the Convicted" with transfer to the penitentiary, solitary confinement, extra walk, appointment, phone call or overdose of medication and other issues.

According to the received information, each self-harm socio-psychological works were carried out on the case, in particular, psychological works were carried out by the psychologists of the penitentiary foundation, as a result of which a psychological conclusion was made regarding the possible motives of self-harm and further predictions of behavior.

Despite the clarifications provided, it should be noted that in the conditions of insufficient number of psychologist positions in penitentiary institutions, their incomplete staffing or vacancy in general, consistent and in-depth psychological work becomes impossible.

At the same time, dynamic monitoring and special psychological measures of risk persons are almost not carried out. According to the monitoring results, it was recorded that the methodology of psycho-psychological work carried out with persons exhibiting risky behavior does not include special

procedures and mental rehabilitation programs. The main goal of psychological work is the reconstruction of the negative attitudes of persons deprived of their liberty, which is almost impossible to achieve with a one-time conversation and requires long-term psychotherapeutic treatment.

In response to the request of the Human Rights Defender regarding measures taken to prevent suicides and self-harms in penitentiary institutions, the Ministry of Justice of the Republic of Armenia stated that due to the legislative changes that came into effect in 2023 there is a need to the legal regulations related to risk screening and assessment tools for suicides and self-harms occurred, as a result the Order of the Minister of Justice of October 25, 2023 "On approval of the procedure for checking and assessing the risk of suicide and self-harm in penal institutions of the Ministry of Justice and invalidation of the order of the Minister of Justice of July 26, 2022 N 405" L was adopted.

Thus, in order to identify persons deprived of their liberty who are at risk of death, including suicide and self-harm, to ensure proper control over them and to prevent suicide cases, it is necessary to:

- ✓ provide all persons deprived of their liberty when sent to a penitentiary institution, to provide an in-depth psychological consultation, which will identify persons at risk of suicide, place them in cells or other places with conditions corresponding to their mental state and physical characteristics, carrying out appropriate preventive activities;
- ✓ cultivate methodological guidelines for increasing the effectiveness of psychological services in penitentiary institutions;
- ✓ ensure access to psychiatric and psychological help for persons deprived of their liberty during their stay in the penitentiary institution;
- ✓ at high risk of suicide and self-harm to prohibit persons from having with them such things and objects with which the latter can commit suicide and self-harm (for example, rope, belt, shoelaces, clamp, cable, power cord, etc.);
- ✓ among the employees of penitentiary institutions, implement appropriate training on work and methodologies to reduce the risks for those at risk of suicide and self-harm.

4.20. Transport and communication

One of the problems that has not been solved for years is the access to transport communication of the penitentiary institutions, which was repeatedly mentioned in the annual reports of the RA Human Rights Defender as a national mechanism of prevention.

The mentioned issue was raised by the HRD on the basis of individual complaints. In their complaints, the nationals of the persons deprived of their liberty, in particular, stated that due to the lack of transport links to the "Armavir" penitentiary institution, they have to walk more than 3.5 km or use the taxi service to get to the penitentiary, requires additional financial resources.

In connection with the steps taken to provide accessible and regular public transport routes for visitors of persons deprived of their liberty, penitentiary officers and medical personnel, the RA Ministry of Justice stated that the provision of public transport routes is not within the scope of the functions of the Penitentiary Service, adding that the above-mentioned persons, with the exception of "Armavir" penitentiary institution, have the opportunity to use transport routes in all other institutions.

In connection with the above, it should be noted that "Nubarashen" and "Vardashen" penitentiary institutions are the closest public transport stops are located at a distance of about 1 km and the "Sevan" penitentiary institution is located about 500 meters from the Yerevan-Sevan highway, but there is no public transport stop in this area.

In this case, the question arises, how will people visiting "Armavir", "Nubarashen", "Vardashen" and "Sevan" penitentiary institutions use from the transport route.

It is noteworthy that sub-point 2 of Point 33 of Annex 2 of the RA Government Decision No. 1717-L "On approval of the Strategy of the Penitentiary and Probation sphere of the Republic of Armenia for 2019-2023, the program of measures for its implementation for 2019-2023, the financial assessment of the program and the procedure for forming the coordinating council and organizing activities for the implementation of the program" dated on November 28, 2019 of provided for the implementation of steps to solve the problems of transportation access to penitentiary institutions and, accordingly, to ensure transportation communication purpose. It should be emphasized that the implementation of the mentioned subsection was planned for the years 2020-2021, but the problem remains unresolved to this day.

The HRD notes that the penitentiary the problem of access to transport communication of institutions has not been solved for ears, causing obstacles in the proper realization of the right of persons deprived of their liberty to communicate with the outside world.

Thus, considering the need for the proper realization of the right of persons deprived of their homes to communicate with the outside world and the positive duty of the state in connection with it, it is necessary to provide an urgent and definitive solution to the problem of transportation access to penitentiary institutions, providing accessible and regular public transportation routes for visitors of homeless persons deprived of their liberty.

4.21. Working conditions of penitentiary system staff

Protection of human rights is a comprehensive process, which implies guaranteeing the rights of all participants in that process, ensuring respect for each of them, and establishing relations guaranteeing mutual respect. One of the components of this principled approach is the state of ensuring the rights of

the employees of the competent bodies, whose activities are called to implement the protection of the rights of the members of the society.

It also refers to penitentiary officers, their decent working conditions and social guarantees, including salary. It should be emphasized that without proper provision of the above-mentioned guarantees, it is practically difficult to expect high and significant results in the field of ensuring the rights of persons deprived of their liberty.

The possibility of penitentiary officers to work under favorable conditions is the constant focus of the Human Rights Defender, taking into account that the protection of human rights requires a systematic approach and includes the protection of the rights of the officers. The issues of guaranteeing the rights of penitentiary officers have always been raised by the Human Rights Defender as a means of prevention in the annual reports on the previous years' activity of the revenue mechanism.

Improving the working conditions of representatives of the administration of penitentiary institutions is one of the main elements of ensuring the normal operation of penitentiary institutions. One of the important prerequisites for the improvement of working conditions is the filling of vacant positions in penal institutions, which will lead to a reduction in the degree of employment of the representatives of the administration and will contribute to their proper performance of work duties and increase their efficiency.

The questions regarding the proper ratio of posts of penitentiary officers, proper working conditions and sufficient social guarantees continued to be the target of the studies of the Human Rights Protection as a National Preventive Mechanism, and as a result of the conducted monitoring visits, a number of issues were recorded.

As a result of monitoring, the number of personnel in penitentiary institutions is strictly limited, taking into account the ratio of penitentiary to person deprived of liberty. By studying the job lists of the Central Body of the Penitentiary Service and penitentiary institutions, it was found that 139 of the 2026 posts in the Penitentiary Service were vacant as of January 4, 2024, which is 6.86% of the total number. The presence of so many vacancies in the penitentiary system is concerning.

Lots of vacancies "Armavir" (39 out of 363), "Nubarashen" (27 out of 252) and "Hospital for the Convicted" (20 out of 185) were appointed.

As of January 4, 2024, 154 employees of the security department of the "Armavir" penitentiary institution, which is in direct contact with persons deprived of their liberty, were included in the work, when 1025 persons deprived of their liberty were kept in the penitentiary institution. 97 officers were involved in the work of the security department of "Nubarashen" penitentiary institution, in the event that 449 persons deprived of liberty were kept in the penitentiary institution.

Due to the lack of a sufficient number of controllers, are not followed the requirements of the Point 110, sub-point 3 of an Annex of the Order No. 194-N of the Minister of Justice of the Republic of Armenia, dated on November 21, 2011, "On approving the order of activity of the structural subdivisions

of the security service of the Ministry of Justice of the Republic of Armenia" , that at least three guards (...) should be present when opening the cell, and at least four officers at night.

The main problems for not filling these vacancies are the low salary and lack of proper working conditions and social benefits. The issue of adequate and proportionate salary, as well as the introduction of flexible incentive mechanisms, is constantly raised by the penitentiary officers during the monitoring visits. Therefore, the mentioned issues are subject to review and systemic change in the penitentiary system.

It should be emphasized that the improvement of the social welfare of penitentiary officers the system in general will have a direct positive effect from the point of view of the state of ensuring the rights of persons deprived of liberty in prisons, inhumane treatment and prevention of corruption risks. Therefore, with this connection, it is necessary to undertake a series of continuous steps.

During the regular monitoring visits carried out in 2023, a number of problems related to the working conditions of penitentiary officers were also recorded.

Thus, studied "Vardashen", "Sevan" and "Artik" penitentiary institutions, during the absence of food provision centers for employees near the institutions, the employees bring ready-made food from home, the possibility of heating which is not available in the institution. There are also no areas adapted for food intake (for example, a cafeteria) for employees in the premises of the institutions, and the latter take food in their offices, which causes a number of inconveniences. Moreover, there are no refrigerators in places accessible to persons performing service in the regime zone of penitentiary institutions, which is concerning from the point of view of food preservation in hot weather conditions.

The bathrooms intended for employees of the buildings of the "Vardashen" penitentiary institution and the bathroom of the administrative building of the "Sevan" penitentiary institution were in an unacceptable sanitary and hygienic condition, and there was a need to carry out cleaning works. In the "Artik" penitentiary institution, the bathrooms intended for employees did not have seats.

During the monitoring visits, offices with unsatisfactory conditions were also recorded, in which the level of humidity was high, and plaster was spilled on the walls and ceiling. According to the information provided by the officers of the "Artik" penitentiary institution, the offices were renovated mainly at their own expense, which is also concerning.

Also problematic are the lack or scarcity of technical means and property necessary to properly organize the work of officers of penitentiary institutions, as well as the organization of joint work of a large number of officers in small offices. Thus, for example, at the time of the visit, 8 people were working in the "SPLW" (Department of Social, Psychological, and Legal Works) department of the "Sevan" penitentiary institution, with a small area, when there were only two computers in the entire department. According to the officers, they are not enough, because all the officers use the computer all the time due to work, and in this case they have to give way to one another or wait a long time for their turn, which causes delays during the organization of work.

During the conversations with the "Sevan" and "Artik" penitentiary institutions staff, they expressed their dissatisfaction with the lack of transport communication to the penitentiary institutions, noting that they often have difficulties in getting to the penitentiary institution and home from there.

For the employees of the "Sevan" penitentiary institution, there was no means of transportation to get to work, which is problematic. According to the provided information, the employees of the penitentiary institution come to work with those officers who have a car. During the conversations, the latter informed that there are often cases when they have to wait a long time at the workplace after working hours due to lack of adequate transport.

The employees of the "Artik" penitentiary institution also noted that the inmates who do not live in the communities adjacent to the "Artik" penitentiary institution have problems finding an apartment on a rental basis in the city of Artik, because for this purpose the amount provided to them by the state is not enough. According to the latter, the state provides them with about 20,000 AMD for the purchase of an apartment (house) on a rental basis in the location of the "Artik" penitentiary institution, in the village of Harich, but the apartments provided on a rental basis in the said village or due to the lack of houses, they are forced to buy an apartment in the city of Artik, where the apartment rents are higher, and the money provided by the state is not enough for them.

Inadequate working conditions in penitentiary institutions are unacceptable and demanding urgent solution.

During the private interviews, the penitentiary officers also expressed their concern about the scarcity or absence of trainings and courses.

In connection with the mentioned, the RA Ministry of Justice reported that during 2023, 480 penitentiary officers were trained, and 1,322 officers participated in special training courses. According to the Ministry of Justice, the training courses included, among others, effective communication, conflict, stress and time management skills, human rights protection and torture, inhuman or degrading treatment topics related to international standards of combating violence, prevention of human trafficking, specifics of combating criminal subculture, organization of the process of resocialization of convicts, protection of personal data, specifics of work with vulnerable groups. Within the framework of special training courses, physical and combat training, physical strength, order of use of special means and weapons, terms and limits, first aid for injured persons related to the use of special means were studied, topics on pistol and rifle tricks and drills, as well as emergency and civil defense basics.

The organization of training courses for the penitentiary officers is, of course, welcome, but it is necessary that they have a continuous and periodical character, including as many correctional officers as possible.

So, summarizing the above issues, it is necessary to:

- ✓ *review the distribution of posts of penitentiary officers according to penitentiary institutions of the proportion of the kit;*
- ✓ *provide penitentiary institutions with a sufficient number of composition;*

- ✓ *take active steps to fill vacant posts;*
- ✓ *take steps to improve the system of social guarantees for officers of the penitentiary system, including the salary;*
- ✓ *provide sufficient working conditions for the officers of penitentiary institutions, including working rooms with sufficient conditions, proper conditions for food intake, as well as with sufficient sanitary and hygienic conditions/bathrooms;*
- ✓ *take steps in the direction of providing transportation access to penitentiary institutions;*
- ✓ *review amount of money provided to the penitentiary officers for this purpose residing in the communities adjacent to the "Artik" penitentiary institution on a rental basis;*
- ✓ *continue the organization of periodic training courses for penitentiary officers, ensuring the participation of as many officers as possible.*

CHAPTER 5. CONDITIONS OF COURTHOUSE HOLDING CELLS FOR PERSONS DEPRIVED OF LIBERTY IN COURTS

As part of the Human Rights Defender's monitoring activities as the National Preventive Mechanism, the conditions of courthouse holding cells for persons deprived of liberty in courts continue to be examined, among other places of deprivation of liberty.

In the framework of monitoring activities in 2023, unannounced visits were conducted to the Yeghvard, Hrazdan and Charentsavan seats of the Court of First Instance of General Jurisdiction of Kotayk Region, the Ashtarak seat of the Court of First Instance of General Jurisdiction of Aragatsotn Region, the Yeghegnadzor seat of the Court of First Instance of General Jurisdiction of Ararat and Vayots Dzor Regions, as well as the Goris and Kapan seats of the Court of First Instance of General Jurisdiction of Syunik Region.

The subject of examination included the sanitary and hygienic conditions of the courthouse holding cells for persons deprived of liberty and the conditions of detention, as well as private conversations with representatives of court staff, judicial bailiffs and officers of the escort unit of the Police of the Republic of Armenia. Based on the compilation and analysis of information obtained during the visits, a number of issues were identified related to building conditions, lighting, cell furnishings, sanitary and hygienic situations, provision of food to persons deprived of liberty, organization of legal assistance, as well as the environment not adapted to the needs of persons with mobility issues.

Representatives of the National Preventive Mechanism recorded during the monitoring that no changes were observed in the courthouse holding cells for persons deprived of liberty in both the Ashtarak²⁷ seat of the Court of First Instance of General Jurisdiction of Aragatsotn Region and the Hrazdan seat²⁸ of the Court of First Instance of General Jurisdiction of Kotayk Region.

As a result of the monitoring, a number of issues related to cell lighting were recorded. For instance, in the Hrazdan seat, the only cell intended for temporary detention of persons deprived of liberty is located on the first floor of the courthouse, where there were no windows, natural light, and ventilation was absent. A similar situation existed in the Ashtarak seat, where the cell lacked a window, making it impossible to provide natural light and proper ventilation, which is extremely concerning.

Some courthouse holding cells in courts lacked access to drinking water due to the absence or malfunction of taps. In particular, in one of the two cells of the Ashtarak seat, which was used more frequently, there was no sink or water tap, and water availability was provided through plastic bottles. In the other cell, a plastic bottle was installed instead of a sink tap.

In all cells of the Yeghegnadzor seat, although there were sinks and water taps, water supply was not provided at the time of the visit. The staff member noted that water supply in the cells was provided when there was a person deprived of liberty in the cells. At the same time, it should be noted that although there was no person deprived of liberty in the third cell at the time of the visit, the cell was provided with a water supply.

²⁷ See on <https://www.ombuds.am/images/files/3167e2e8e2e90d939c4cffd7c644593f.pdf> as of 29.03.2024; pages: 260-265.

²⁸ See on <https://www.ombuds.am/images/files/f6bccc6db65258e28be6f3e093987a15.pdf> as of 29.03.2024.

It is concerning that during the monitoring visits, almost all cells lacked disposable utensils, particularly drinking water cups, which is problematic from the perspective of access to drinking water for persons deprived of liberty. In some cases, the drinking water cups placed in the cells were not suitable for use due to being unclean.

It should be noted that in its 2016 report on Malta, the CPT stated that persons deprived of liberty in court cells should have access to drinking water, and the cells should be fully renovated and maintained in a safe and proper condition²⁹.



Court cells

²⁹ See on <https://rm.coe.int/16806b26e8> as of 29.03.2024; paragraph 28:

Representatives of the Human Rights Defender recorded during monitoring visits that some court cells were equipped with Asian-type toilets, which were separated from the living area by an incomplete wall and did not have doors. The above is particularly problematic considering that more than one person can be held in the cells (up to 3 persons according to the information provided), in which case it is impossible to ensure the realization of the right to privacy. Moreover, the issue is more sensitive when the person deprived of liberty is a woman, while the escort unit staff are predominantly men.

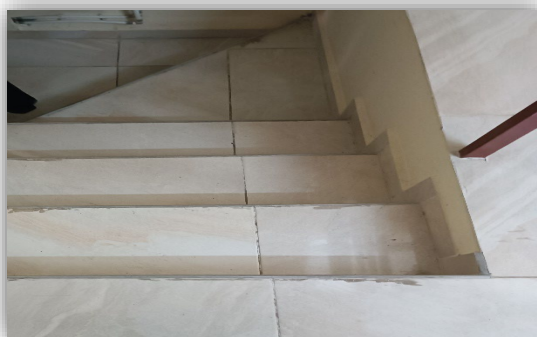
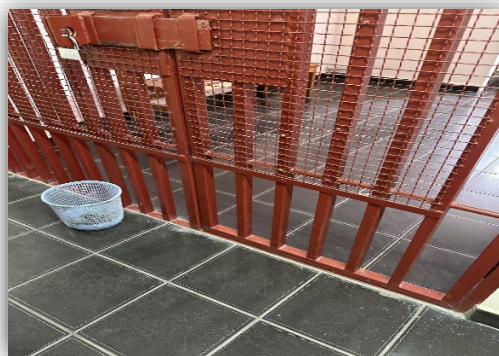
The location of toilets in the Ashtarak seat continues to be problematic. Thus, the doors of the cells in the seat were barred, and the toilets inside the cells were located in such a way that they were clearly visible from outside the cell, from the corridor.

The Defender emphasizes that such conditions are unacceptable and violate the right to dignified treatment of a person and the inviolability of their private life.

Such conditions are a gross violation of international standards for the prevention of torture, which have been observed by the European Court of Human Rights, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the UN Committee against Torture, the Subcommittee on Prevention of Torture and other international organizations.

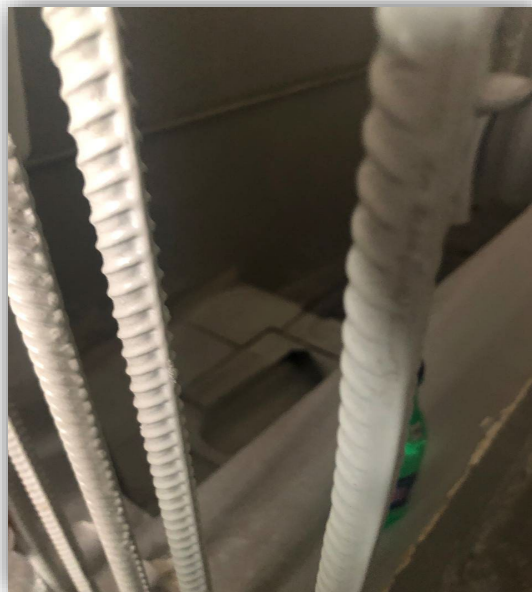
It is also problematic that hygiene items were absent in almost all cells of the monitored court, particularly soap and toilet paper. In the toilets of two cells of the Yeghegnadzor seat, there were small pieces of fragmented toilet paper on the half-wall, which were not suitable for use, while in the third cell, there was toilet paper.

It should be emphasized that there were no trash bins in the cells of the Yeghvard, Hrazdan and Charentsavan seats, as well as in the cells of the Ashtarak seat.



Court cells

In the Kapan seat, the trash bins were placed in the corridor, outside the cell area, which created additional difficulties for persons deprived of liberty to use them. According to the information received, the trash bins were not kept in the cells for security reasons. It should be noted that this is not a reasonable justification in terms of creating disproportionate difficulties for persons deprived of liberty.



Court cells

It is extremely concerning that the entrances to the monitored courthouses, cells, toilets, as well as staircases leading from the cells to the courtroom, were not adapted to the needs of persons with mobility issues, and ramps were absent.

In the cells of the Yeghegnadzor seat, the toilets were located one step above the general floor level, which can create additional difficulties for persons with mobility issues to use the toilet. In particular, despite the fact that the entrance to the building of the Kapan seat and an adapted environment for citizens with mobility issues were provided in the courthouse (in particular, ramps), nevertheless, ramps were absent in the entrance area of the courthouse intended for persons deprived of liberty. Moreover, one of the courtrooms of the Kapan seat was located on the first floor, the other on the second floor, and it was possible to ascend from the cells to the courtroom only by a staircase, which created insurmountable obstacles for independent movement of persons with mobility issues.

During the visits, problems were recorded related to the furnishing of court cells. Thus, benches were absent in all cells of the studied seats. It should be noted that in one of the three cells of the Charentsavan seat, a bench was absent, while in the Yeghvard seat, a chair was placed in one of the cells when accommodating a person deprived of liberty. It should be emphasized that all chairs in the Yeghvard seat, including those intended for escorting police officers, were worn out.

It is noteworthy that in one of the cells of the Yeghvard seat, the lattice did not have a lock, and after accommodating a person deprived of liberty, the lattice was closed using handcuffs. The escorting police officer's skill in closing the lattice with handcuffs and doing so without asking allows us to assume that it was not being applied for the first time.

Issues related to the placement of persons deprived of liberty in court cells, their transfer to the courtroom, and security provision (including in the courtroom) continue to be problematic, which is carried out by escort battalion officers. Judicial bailiffs are present in the courtroom and do not deal with persons deprived of liberty.



Court cells

It is noteworthy that Decision No. 351-N "On Approving the Procedure for Escorting and Guarding Detained and Arrested Persons by the Police of the Republic of Armenia under the Government of the Republic of Armenia" adopted by the Government of the Republic of Armenia on April 2, 2009, does not provide for the obligation of the Police escort battalion officers to place detained persons in court

cells, provide sufficient conditions of detention, as well as ensure their security in the courthouse. *According to the regulations in paragraph 70 of the aforementioned decision, upon arriving at the court, the head of the guard informs the head of the court staff about the transfer of detained or arrested persons, after which the detained or arrested persons are escorted to the court cells intended for their detention. Before placing these persons in the cells, the cells are mandatorily inspected.*

The aforementioned regulations indicate that the functions of the Police escort unit terminate upon transferring the detained person to the courthouse.

Paragraph 72 of the same decision stipulates that *"for the purpose of ensuring public order and the safety of participants in proceedings during court sessions, at motion or as necessary, a special plan is developed and implemented in advance, which provides for enhanced service organization, appointment of posts and shifts, calculation of forces and means, as well as the presence of police officers in civilian clothes in the courtroom. The special plan is developed by the commander of the escort unit. After coordination with the court president, it is approved by the head of the Yerevan City Department."*

In other words, officers of the relevant subdivision of the RA Police may be present in courtrooms (at court sessions) only for the purpose of maintaining public order and ensuring the safety of participants in proceedings.

It turns out that the issues of placing detained persons in court cells, ensuring their security in the courthouse, and providing sufficient conditions of detention remain open. Currently, all these functions are actually carried out by officers of the Police escort unit. As a result, the risks of human rights violations increase due to the state's imperfect procedures.

In this regard, it should be noted that back in 2019, a draft on making amendments and additions to the Government Decision No. 351-N of April 2, 2009, was submitted for the opinion of the Human Rights Defender, which proposed to hand over detained or arrested persons escorted by the escort unit to the custody of judicial bailiffs in court. This was put into circulation, but no steps have yet been taken regarding its adoption.

Simultaneously, it may be problematic for court bailiffs to escort persons deprived of liberty to court, ensure their safety in the courthouse and maintain their health, as well as carry weapons, from the perspective of properly possessing the relevant knowledge and skills.

Thus, based on the regulations of the Government of the Republic of Armenia Decree No. 351-N of April 2, 2009, and current practice, it can be noted that there is a legislative gap regarding escorting persons deprived of liberty to court, ensuring their safety and adequate detention conditions in the courthouse, as well as maintaining their health.

In practice, issues often arise concerning which state authority should be responsible for placing persons deprived of liberty in court cells, providing adequate detention conditions, including proper nutrition and medical care, maintaining their health, and ensuring their safety within the courthouse.

Currently, the responsibility for providing food to detained persons transferred to court lies with the administration of the respective detention facility.

Court staff representatives also noted that no issues were raised regarding organizing meals for persons deprived of liberty, and food was not provided to them in courthouses at all. According to information obtained during monitoring, food was not provided to persons deprived of liberty in penitentiary institutions when they were transferred to courts and held there for more than 4 hours.

It is extremely concerning that under these conditions, a situation arose where persons deprived of liberty were not provided with the necessary nutrition for regular bodily functions when transferred to courts located far from penitentiary institutions, in cases of lengthy court sessions and/or postponements of court sessions, while being held in cells designated for temporary detention in courts.

Moreover, even if a person deprived of liberty was provided with food or had food with them, there were no necessary conditions for consuming it when needed. The cells lacked tables and other amenities for eating.

The issue is even more pressing in the case of detaining arrested persons in court cells. Complaints addressed to the Human Rights Defender raised issues related to not providing food to arrested persons when held in court cells for 12 hours or more. Furthermore, persons deprived of liberty did not have the opportunity to receive food brought by relatives, as there were no corresponding regulations for accepting deliveries in court.

There were also no legislative regulations for transferring prescribed medication for continuous use to a person deprived of liberty, as well as drinking water and hygiene items as needed.

The Defender emphasizes that the absence of clear legislative regulations leads to problems related to ensuring the rights of persons deprived of liberty.

Another issue is organizing legal assistance for persons deprived of liberty. The legislation does not regulate the possibility of receiving necessary legal assistance while persons deprived of liberty are held in court cells, which may violate a person's constitutional right.

It should be noted that according to the regulations of the Criminal Procedure Code of the Republic of Armenia, in case of arresting a person who has committed a crime, the latter is presented to the court by the body conducting the proceedings to resolve the issue of applying a preventive measure, with the court considering the issue of applying a restraint measure within at least 12 hours. During this period, the person deprived of liberty is held in court cells.

During this time, the person deprived of liberty is denied the opportunity to receive legal assistance due to the absence of appropriate legislative regulations. This issue also exists for detained persons and convicts.

The issue of organizing nighttime sleep for persons deprived of liberty is also problematic.

In particular, a person deprived of liberty was held in a court cell during nighttime hours, where at best they could sit, but necessary conditions for rest, especially sleeping, were not provided, which in some cases may be considered a manifestation of ill-treatment.

Taking into account the above, it is necessary to:

- ✓ ***Carry out necessary renovation and cleaning work in court cells;***
- ✓ ***Furnish all cells in court locations with benches, tables, and beds;***
- ✓ ***Provide necessary conditions for eating in court cells;***
- ✓ ***Equip court cells with hygiene items;***
- ✓ ***Separate court cell toilets from the living area with a full wall and furnish them with doors;***
- ✓ ***Adapt courthouses, cells, and their toilets to the needs of persons with mobility issues;***
- ✓ ***Properly regulate by law the issues of placing persons deprived of liberty in court cells, providing adequate detention conditions, including proper nutrition and medical care, maintaining their health, receiving legal assistance, and ensuring their safety within the courthouse.***

CHAPTER 6. VEHICLES DESIGNATED FOR THE TRANSPORTATION OF PERSONS DEPRIVED OF LIBERTY: TRANSFER, ESCORT AND CUSTODY OF PERSONS DEPRIVED OF LIBERTY

In 2023, the National Preventive Mechanism monitored the provision of adequate conditions during the transport of persons deprived of liberty in vehicles designated for their transfer.

Issues related to the conditions of vehicles transporting persons deprived of liberty, the organization of transfers, and the need for new equipment have consistently been raised in the annual reports of the Human Rights Defender as the National Preventive Mechanism. However, these issues remain unresolved and relevant today.

It should be emphasized that the function of safely transporting convicted persons from penitentiary institutions to locations of bodies conducting criminal proceedings or procedural actions, and ensuring the custody of convicted persons at these locations, has been transferred from the jurisdiction of the Police of the Ministry of Internal Affairs to the jurisdiction of the Penitentiary Service.

The Penitentiary Service has acquired 10 special-purpose vehicles, which have been in operation since December 28, 2022. However, these vehicles are not adapted to the special needs of persons deprived of liberty with health issues.

The transfer and custody of arrested and detained persons are carried out by the escort unit of the Police of the Ministry of Internal Affairs.

According to information provided by the Ministry of Internal Affairs, during 2023, no special vehicles assigned to the police escort units were taken out of circulation, and no new vehicles were introduced.

According to point 2.11 of the actions in Annex 3 of the Government Decision No. 1978-L of December 26, 2019, "On Approving the National Strategy for Human Rights Protection and the Action Plans for 2020-2022 and 2023-2025 Derived from It," it is planned to acquire 22 vehicles in the second half of 2024 for transporting persons deprived of liberty, "including persons with disabilities."

During 2023, several complaints addressed to the Human Rights Defender by citizens and advocates raised the issue of an insufficient number of vehicles transporting detained persons from the penitentiary institution to court in the Shirak region, which led to constant postponements of criminal case hearings. These circumstances were also confirmed by persons deprived of liberty during the monitoring visit to the "Artik" Penitentiary institution.

Regarding this issue, the Ministry of Internal Affairs reported that the simultaneous malfunction of all 3 available vehicles was the reason for the impossibility of escorting arrested and detained persons by the escort unit of the Shirak provincial department of the police of the Republic of Armenia. In this situation, escorts were carried out within the limits of possibility using service vehicles of the subordinate divisions of the Shirak Regional Police Department, taking into account the best interests of persons deprived of liberty.

According to the information received, the special vehicles assigned to the police escort units of the Ministry of Internal Affairs are quite old, which is why they frequently break down and become unfit for operation. Regarding the 3 special vehicles assigned to the escort unit of the Shirak Regional Police Department, according to the information received, they have been repaired and continue to be used.



Vehicles

It should also be noted that according to point 40 of Chapter 4 of the Annex to the Government Decision No. 351-N of April 2, 2009, "On Approving the Procedure for Escort and Custody of Arrested and Detained Persons by the Police of the Republic of Armenia," in case of impossibility of escort due to the workload of the escort unit, for the purpose of conducting urgent investigative actions and not violating the legally established terms of detention or arrest, escorts may also be carried out using vehicles of territorial police units.

One of the fundamental human rights enshrined in the Constitution is the right to a fair trial, according to which everyone has the right to a fair, public hearing within a reasonable time by an

independent and impartial tribunal. Failure to ensure the participation of detained persons in court sessions may lead to a violation of this fundamental right.

Moreover, the Human Rights Defender, as the National Preventive Mechanism, continues to be concerned about the problematic conditions of vehicles transporting persons deprived of liberty that do not meet international standards, including the size of cells, inadequate light penetration, ventilation, and lack of adaptation for persons with mobility issues.

Of grave concern is the simultaneous transportation, within the same criminal proceedings, of detained and arrested persons who have procedural status, using the same vehicle. Equally concerning is the transportation of persons deprived of liberty who have a contagious disease posing a risk to others, alongside other persons deprived of liberty, without ensuring proper sanitary and hygienic conditions.

At the same time, ensuring proper working conditions for escort officers is concerning. Thus, during the monitoring of special vehicles of police escort units of the Ministry of Internal Affairs in 2023, it was revealed that during the transfer of two persons deprived of liberty to court, five officers escorted them. One of the escort officers, in the absence of a seat for himself, constantly used a small self-made wooden seat.

The issues raised over the years remain unchanged and relevant, including those resulting from the lack of clearly defined standards for vehicles in the domestic legislation of the Republic of Armenia.

Regarding the conditions of vehicles intended for transporting persons deprived of liberty, particularly the size of cells, the CPT standards are noteworthy. Thus, according to the CPT reports on Lithuania in 2001³⁰, Ukraine in 2002³¹, and Poland in 1998³², it is unacceptable to transport persons in cells with an area of 0.4, 0.5, and even 0.8 square meters, regardless of the duration.

Therefore, it can be stated that the area provided for each person deprived of liberty in the cells of vehicles intended for their transport should exceed 0.8 square meters. Meanwhile, the Human Rights Defender has consistently recorded over the years that the cells of vehicles have not met these standards, particularly that the area provided for one person in a vehicle cell has not exceeded 0.3, 0.4, and 0.5 square meters.

Analysis of the case law developed by the European Court of Human Rights allows us to conclude that the European Court considers the transport of persons deprived of liberty in overcrowded conditions a violation of Article 3 of the European Convention on Human Rights³³.

Important standards also include the height of the vehicle compartment ceiling, which should be higher than 1.6 meters, as well as the presence of a fire protection system, a first aid kit stocked with medication, handles, safety belts, the ability to secure a wheelchair for a person with disabilities, and the possibility of an alternative emergency exit. Ensuring proper working conditions for escort officers and traveling on well-maintained roads are also of particular importance.

It should be noted that already in 2019, a draft amendment to the Government Decision No. 351-N of April 2, 2009, "On Approving the Procedure for Escort and Custody of Arrested and Detained Persons by the Police of the Republic of Armenia" was submitted for the Human Rights Defender's

³⁰ See on <https://rm.coe.int/1680697331> as of 29.03.2024; paragraph 117.

³¹ See on <https://rm.coe.int/1680698401> as of 29.03.2024; paragraph 129.

³² See on <https://rm.coe.int/1680697913> as of 29.03.2024; paragraph 68.

³³ See *Idalov v. Russia*, judgment of 22 May 2012, application no. 5826/03, paragraphs 54, 61 and 103; *Khudoyorov v. Russia*, judgment of 8 November 2005, application no. 6847/02, paragraph 117.

opinion. According to it, in case of impossibility of escorting persons with special needs related to illness by special vehicles of specialized escort units, their escort and custody may be organized using emergency medical vehicles. However, it is concerning that as of 2023, no effective steps have been taken towards adopting the draft.

It is noteworthy that in practice, there are individual cases where the escort of persons with special needs (for example, persons in the post-operative phase or undergoing inpatient treatment) is organized using emergency medical vehicles.

The issue of vehicles adapted for transport buildinging persons deprived of liberty with special needs has been raised in previous annual reports of the Human Rights Defender as the National Preventive Mechanism, but there are still no appropriate solutions in this regard.

Thus, urgent steps need to be taken for the adoption of the aforementioned draft as soon as possible.

During the monitoring carried out in 2023, as well as through complaints addressed to the Human Rights Defender and received alerts, a number of issues related to the transfer and escort of persons deprived of liberty carried out by specialized escort units of the Police have been raised.

Thus, the vehicles intended for transporting persons deprived of liberty do not have an adapted environment for persons deprived of liberty with mobility issues. In the absence of adapted vehicles, the transportation of persons deprived of liberty with mobility issues can worsen their health condition, causing various complications, as well as discomfort, physical pain, and suffering, which is unacceptable.

In the case of Jhangiryan v. Armenia, the applicant also complained about the conditions of transfer from the "Hospital for the Convicted" penitentiary institution to the court sessions the case, as he had to be periodically transferred to court in a vehicle intended for transporting persons deprived of liberty, which was not equipped with special equipment to meet the needs of a person suffering from spinal tuberculosis when strict bed rest was advised. Moreover, the applicant wore a special medical corset to keep his spine firm but had to bend his back to be able to get in and out of the vehicle only with the help of police officers, as well as sit on a wooden bench without back support. Although the distance from the "Hospital for the Convicted" penitentiary institution to the courthouses is relatively short, about 10 km, the Court notes that the applicant was transported there and back at least three times under such conditions.

Considering the above, the Court found that the overall effect of the material conditions of the applicant's transfers and their overall duration are serious enough and qualify as inhuman and degrading treatment within the meaning of Article 3 of the Convention.

Thus, the Human Rights Defender once again urges the competent authorities to take steps to adapt vehicles for persons with mobility issues.

Therefore, it is necessary to:

- ✓ ***Take continuous measures to implement the requirement of providing at least 0.8 square meters of space for each person in special vehicle cells;***
- ✓ ***Ensure standards for cell areas, lighting, ventilation, and other criteria in special vehicles through domestic legislation, ensuring their practical application;***
- ✓ ***Provide for vehicles adapted to the needs of persons with mobility issues.***

CHAPTER 7. DETENTION FACILITIES OPERATING UNDER THE POLICE AND NATIONAL SECURITY SERVICE SYSTEMS OF THE MINISTRY OF INTERNAL AFFAIRS OF THE REPUBLIC OF ARMENIA

During 2023, representatives of the National Preventive Mechanism conducted unannounced visits to the detention facilities operating under the Police Departments of Sisian, Goris, Kapan and Meghri of the Syunik Regional Department, Yeghegnadzor and Vayk of the Vayots Dzor Regional Department, Nairi and Hrazdan of the Kotayk Regional Department, Aparan and Ashtarak of the Aragatsotn Regional Department of the Police of the Ministry of Internal Affairs of the Republic of Armenia, as well as to the detention facilities operating under the National Security Service system of the Republic of Armenia (hereinafter referred to as NSS detention facilities).

7.1. Legislative Regulations

It is noteworthy that the Law of the Republic of Armenia "On Holding Arrested and Detained Persons" defines the general principles, conditions and procedures for holding arrested persons in custody and detained persons in detention, as prescribed by the Criminal Procedure Code of the Republic of Armenia. It also outlines the rights of arrested and detained persons, guarantees for ensuring these rights, their obligations, as well as the procedure for release from custody and detention. The law provides for the possibility of more detailed legal regulations to be stipulated in the internal regulations of detention facilities. In particular, according to Article 10 of the same law, *internal regulations are established in detention facilities for arrested and detained persons to ensure compliance with the rules, which regulate the procedure for admitting arrested and detained persons, their rules of conduct, the list of items and objects that arrested and detained persons cannot have with them, the procedure for confiscating prohibited items, conducting inspections, visitations, correspondence, and delivering parcels, packages and items to them, the daily schedule, and other relations arising from this law.*

In the implementation of the above, the following legal regulations are in force in the Republic of Armenia: Government Decision No. 574-N of June 5, 2008 "On Approving the Internal Regulations of Detention Facilities Operating in the Police System of the Republic of Armenia" and Government Decision No. 731-N of June 28, 2007 "On Approving the Internal Regulations of the Detention Facility Operating in the National Security Service System."

The aforementioned decisions provide for differentiated legal regulations regarding the rights, freedoms, and obligations of arrested persons in detention facilities. These facts are also analyzed in other chapters of the report.

The issue is that, in compliance with the Constitution of the Republic of Armenia and existing international acts on human rights, the legislator must guarantee the normative establishment of equal rights and obligations for subjects of the same group (category), and it is the positive constitutional obligation of the state to ensure conditions that provide equal legal opportunities for persons with the same status. Any differentiated approach is legitimate if it has an objective, reasonable basis and a legitimate purpose.

According to Article 2 of the Law of the Republic of Armenia "On Holding Arrested and Detained Persons," the basis for holding a person in detention facilities is the decision on arrest made by the

investigator in accordance with the Criminal Procedure Code. The Criminal Procedure Code of the Republic of Armenia provides for identical legal status of arrested persons, general procedures for arresting persons and releasing arrested persons, and the same scope of rights and obligations.

It should be emphasized that the transfer and detention of an arrested person in a detention facility under the NSS or Police system is solely determined by investigative jurisdiction. Investigative jurisdiction is merely a set of criteria that allows for determining which pre-trial investigation body should conduct a specific criminal proceeding.

It is inadmissible to link the scope of human rights and obligations to the pre-trial investigation body conducting the investigation of the criminal case.

The choice of detention facility for arrested persons, based on investigative jurisdiction, should not serve as a criterion for determining the legal status of the arrested person. Consequently, it does not constitute an objective and reasonable basis for applying a differentiated legal approach to arrested persons with the same legal status, or for providing different scopes of rights and obligations.

The differences in legal regulations in the internal regulations of detention facilities may be conditioned exclusively by the specificities of the respective state authority, provided that such specificities should not affect the legal status of the arrested person and lead to differentiated and discriminatory treatment towards them.

Therefore, taking into account the above, it is necessary to review the need for separate internal regulations for detention facilities operating under the NSS and Police systems and consider the possibility of establishing them through a single common legal act.

7.2. Detention Conditions

Reasonable accommodations and adequate living conditions are necessary for the normal functioning of persons deprived of liberty in Temporary Detention Facilities (TDFs). Based on conducted studies, the issues related to detention conditions in TDFs can be classified into the following groups:

1. Cell conditions,
2. Laundry, bathing facilities and sanitary conditions,
3. Food provision,
4. Exercise yards
5. Fire safety systems.

1) The TDFs examined by the National Preventive Mechanism generally required major renovations and in some cases cosmetic repairs. Adequate detention conditions were recorded in the TDFs of Aparan, Kapan, Vayq and Sisian.

The TDFs of Ashtarak, Nairi, Goris, Meghri and the National Security Service (NSS) required cosmetic repairs, specifically: the floors of the TDFs were worn out, the plaster on the walls and ceilings had partially fallen off, and humidity levels were high.

The Hrazdan TDF required major renovations, where humidity levels were quite high. The issue of inadequate detention conditions and the need for renovations in the TDF was also raised by police officers. It is noteworthy that during adverse weather conditions (strong winds, rain), the roof of the TDF is often damaged and periodically requires repairs.

The renovation work carried out in the "three-hour" cells of the Yeghegnadzor police department is commendable. However, inadequate conditions were recorded in the "three-hour" cells of Vayq and

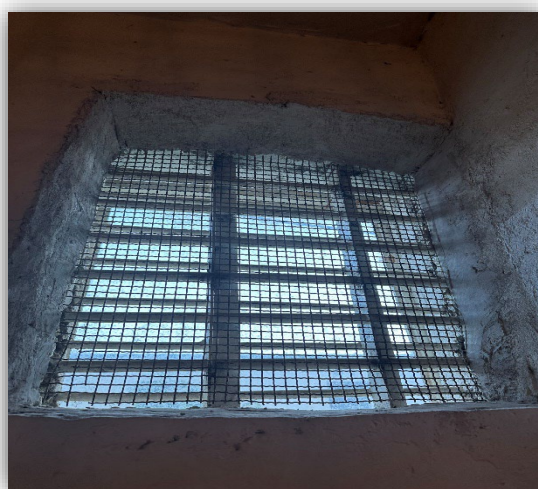
Goris TDFs, where there was no ventilation and heating system, and the cell doors were completely closed without ventilation possibilities.

During the visit, it was recorded that in some cases, the living space per person prescribed by RA legislation was not maintained in TDF cells.

For instance, one of the cells in the NSS TDF had an area of 17.3 square meters (including a 1.8 square meter bathroom), where 4 beds and 3 lockers were installed.

As a result, the requirements of Article 20 of the RA Law "On Holding Arrested and Detained Persons" were not met, according to which the living space allocated to arrested and detained persons cannot be less than four square meters per person.

It should be emphasized that the area of a single-occupancy cell in the NSS TDF was 6.5 square meters (including a 1 square meter bathroom), where the four square meter living space per person prescribed by domestic legislation was maintained. However, the distance between the opposite walls of the cell was about 1.3 m, which is less than the minimum requirement set internationally.



Detention conditions

Regarding this issue, according to CPT standards, a prison cell should provide at least 6 m² of living space for a single occupant, and in cells for more than one prisoner, 4 m² of living space per prisoner. The distance between the walls of the cell should be at least 2 m, and the height between the floor and ceiling should be 2.5 m.

Although the minimum living space per person was maintained in the cells of other observed TDFs, in some cases the cells did not meet international standards. For example, during the visit, it was recorded that the distance between the opposite walls in the cells of Yeghegnadzor TDF was about 1.5 m (in one of the cells - 1.6 m), which is also actually less than the minimum requirement set internationally.

Proper lighting, including sufficient natural light during daytime hours, is one of the most important elements in ensuring the well-being and normal functioning of persons deprived of liberty.

The level of natural light was low in the cells of all monitored TDFs, which is due to the very small and grilled windows.

It should be noted that on September 2, 2023, the RA Government Decision No. 1487-N "On Defining the Peculiarities of the Construction and Furnishing of Detention Facilities Operating in the Police System of the RA Ministry of Internal Affairs" came into force, which stipulated requirements for the construction and furnishing of TDFs, including requirements for building windows.

During monitoring visits, it was recorded that the furnishing of TDF windows did not comply with the requirements stipulated by the aforementioned decision. Thus, the sizes of metal grate cells and metal mesh cells installed in the window openings of TDFs, as well as their sequential arrangement in window openings, were different, resulting in vastly different levels of natural light in cells, as well as in service and auxiliary premises in different TDFs. Moreover, in some cases, the window openings in the service and auxiliary premises of the TDF were equipped with metal meshes in addition to metal grates. It should also be noted that in the studied TDFs, window openings were generally located at a height of more than 1.6 m from floor level, and the sizes of window frame sashes were mostly smaller than the standards set by legislation (TDFs of Sisian, Goris, Kapan, Meghri, Yeghegnadzor and Vayq departments).

As a result of the monitoring, it was recorded that in some TDFs it was not possible to provide natural ventilation through windows. For example, the windows of the cells in Goris TDF did not open at all, while there was no separate ventilation system in the cells. The windows of Meghri TDF cells were new, but they opened from a platform located above the roof of the TDF exercise yard, which was even difficult to access. The windows of Nairi, Hrazdan, Ashtarak, Yeghegnadzor and Vayq TDF cells were wooden and worn out and opened from the TDF exercise yards. The windows of Hrazdan and Yeghegnadzor TDF cells were located quite high and caused inconvenience even when opening from the TDF exercise yard area - they were opened using a movable ladder.

It is commendable that the windows of Sisian and NSS TDF cells opened from inside the cell, which at least gave persons deprived of liberty the opportunity to ventilate the cell independently.

It should be noted that at the time of the visit, new windows were installed in the cells of Kapan and Aparan TDFs, which opened from the corridors of the TDFs through an electric control system. However, during the visit, it was not possible to operate the electric control system of the window in Aparan TDF due to technical issues, while in Kapan TDF, the electric control system of one of the cell windows was out of order and had been sent for repair at the time of the visit.

During the visit, in those cells of Kapan TDF where persons deprived of liberty were held, the electric control systems were in working order, and the windows were in an open position. The presence of such a system is, of course, welcome.

Thus, persons deprived of liberty do not have the opportunity to independently open or close the window in all TDFs, which keeps them dependent on police officers.

It should be noted that, as in previous years, in 2023 the electric lighting in the cells of monitored TDFs was not turned off or dimmed throughout the night. According to information provided by TDF administration representatives, the electric lighting is not turned off for the purpose of monitoring persons held in cells.

As a result, adequate sleeping conditions are not created for persons deprived of liberty.

It is worth noting that in the TDFs of Yeghegnadzor, Vayq and the NSS, electric regulators were installed in the corridors to dim the cell lighting during nighttime hours (in one of the cells of Yeghegnadzor TDF, it was out of order).

The use of such mechanisms is commendable, as it creates proper sleeping conditions for persons deprived of liberty.

However, it is concerning that in the observed TDFs, a person deprived of liberty did not have the opportunity to independently control the artificial lighting of the cell from within, which was interpreted as a measure to ensure the person's safety and prevent suicides and self-harm.





Detention condition

However, for example, in the cells of the NSS TDF, there were other power sources intended to provide the operation of radio receivers, as well as other devices as needed (e.g., respiratory devices, etc.).

Another issue is that in the monitored TDFs, there were generally no cells designated for the detention of minors, pregnant women, and women with children. During monitoring visits, it was recorded that only one cell each in Hrazdan, Ashtarak, and Kapan TDFs was designated for women and minors and provided with hot water, with the exception of the corresponding cell in Ashtarak TDF.

Issues were also recorded regarding the provision of radio receivers and "Call" signal buttons in TDF cells.

For instance, "Call" signal buttons were not installed at all in the cells of Kapan TDF. In Hrazdan and Nairi TDFs, "Call" signal buttons were not installed in the cells; they were portable and kept by police officers. According to the information provided, these are given to persons deprived of liberty upon admission to the TDF.

In Aparan TDF, "Call" signal buttons were installed in three out of four cells, of which only one was operational. Sometimes the batteries were missing, which were kept separately.

During visits to TDFs at different times, representatives of the Defender's Office recorded cases where, due to the absence of appropriate signal buttons, persons deprived of liberty called TDF officers by shouting through the cell's food hatch (Nairi TDF).

Issues related to the provision of radio receivers in TDF cells were also recorded during the visits. In Hrazdan and Meghri TDFs, radio receivers were not available at all, in Aparan TDF they were available in only one out of four cells, while in the NSS, Nairi and Sisian TDFs, they were provided upon request.

The initial absence of "Call" signal buttons and radio receivers in TDF cells, as well as their provision as needed or upon request, do not meet the legislative requirements for material provision for persons deprived of liberty and do not serve their purpose.

It should be noted that the studied TDFs were generally equipped with operational "Alarm" signal buttons (with the exception of Nairi TDF, which was not equipped with an "Alarm" signal button, and Ashtarak TDF, where the signal buttons were out of order).

The Human Rights Defender welcomes the fact that according to information received from the NSS and the Police, the issues recorded by the representatives of the Human Rights Defender have been addressed, TDFs have been equipped with signal buttons and radio receivers, and existing malfunctions have been eliminated.

During the visit, an issue was also recorded regarding cell door peepholes and cell visibility. For example, the peepholes of Yeghegnadzor TDF cells did not provide sufficient visibility of the cells; in particular, they were old and dirty, resulting in cell observation being carried out through food hatches.

It is also concerning that in some cases, the entrances to TDF cells were one or two steps higher than the floor, which created additional difficulties for persons with mobility issues when entering the cells.

The Defender welcomes the fact that according to information received from the NSS, based on the aforementioned observations of the Human Rights Defender, cosmetic renovation works have been carried out in the TDF.

Therefore, it is necessary to:

- ✓ ***Take measures to ensure that the cells in temporary detention facilities (TDFs) meet the minimum living space requirements per person as stipulated by Armenian legislation and international standards, as well as comply with construction requirements for cells.***
- ✓ ***Implement necessary renovation and major repair works in TDFs.***
- ✓ ***Replace wooden and worn-out windows in TDFs with new ones, and at minimum, equip them with electric window control systems to ensure proper ventilation in cells.***
- ✓ ***Ensure adequate ventilation in TDFs.***
- ✓ ***Align all window openings, metal bars, grating arrangements, and glazed sash dimensions in TDF cells, service, and auxiliary premises with established standards.***
- ✓ ***Equip TDF cells with electrical dimmers for artificial lighting.***
- ✓ ***Designate separate cells for women and minors in all TDFs, ensuring at least hot water accessibility in these cells.***
- ✓ ***Equip all TDF cells with "Call" signal buttons and radio receivers.***
- ✓ ***Install "Alarm" signal buttons in TDFs and ensure the functionality and uninterrupted operation of existing buttons.***
- ✓ ***Adapt the entrance of at least one cell in each TDF to accommodate the needs of persons with mobility difficulties.***

2) In the TDFs monitored by representatives of the Human Rights Defender, toilets were primarily of the squat type (except for the National Security Service TDF) and were not adapted for persons with mobility issues.

In some TDFs, squat toilets were elevated one or several steps above the general floor level, potentially creating additional difficulties for persons with mobility issues when using the toilet.

In this regard, the Police provided clarifications that while the elevated squat toilets may pose some difficulty for persons with mobility issues, it is not impossible to use them, and TDF officers can provide

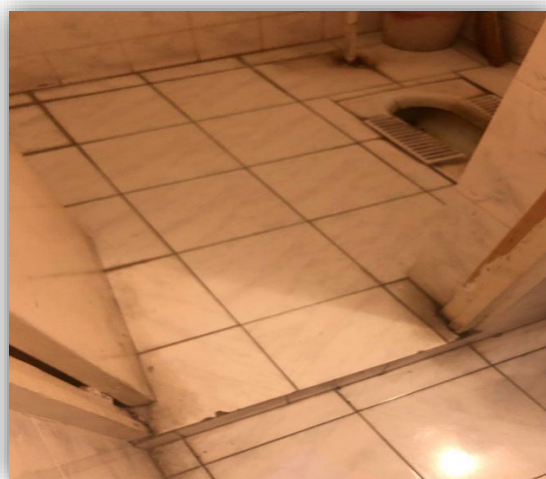
assistance if necessary. Moreover, according to the Police clarifications, the installation of seated toilets in TDFs is not envisaged to avoid bodily contact between different individuals, which is inherently unsanitary.

Emphasizing the importance of ensuring a sanitary and hygienic environment in TDFs, in all cases it is necessary to take steps to adapt TDF toilets to the needs of persons with mobility difficulties and to eliminate their difficulties in using toilets.

In the observed TDFs, shower and toilet areas in bathrooms were not separated from the general area by partitions, making it impossible to avoid direct visual observation (Kapan TDF).

It should be noted that in the National Security Service TDF, toilets were located within cells and equipped with seated toilets and sinks. In the National Security Service TDF cells, toilets were separated from the general area by incomplete walls, with curtains instead of doors (except for the TDF solitary confinement cell, where the toilet was located next to the entrance and there was no wall).

In some observed TDFs, it was possible to fully observe individuals inside through peepholes or windows above or on toilet doors (Vayk, Goris, Sisian, Meghri, Aparan, Ashtarak, Nairi, Hrazdan TDFs).



Toilet

Such conditions are unacceptable from the perspective of human dignity and the right to privacy.

In the National Security Service TDF, the shower was combined with the staff toilet, preventing staff from using the toilet when a detainee is showering.

In TDFs, the shower and toilet were generally combined, preventing one detainee from using the toilet while another was showering.

The above cases violate the right to human dignity and privacy.



Toilet

It should also be noted that at the time of the visit, there was no permanent water supply in the Nairi TDF, specifically it was available for about two hours in the morning and two hours in the evening. It should be emphasized that water supply throughout Yeghvard town is provided in the aforementioned regime. Moreover, due to water supply issues, the shower in the Nairi TDF was not used, which was confirmed by examining the register of "Removing persons from TDF cells" (detained persons were never removed from cells for showering).

Sanitary and hygienic conditions in the studied TDFs were generally satisfactory. Renovation and cleaning work were necessary for the sanitary facilities of Sisian, Goris, Meghri, Hrazdan, Ashtarak, and Nairi TDFs.

Although the Human Rights Defender's representatives generally did not record issues with the availability of hygiene products in TDFs, feminine hygiene products were absent in the National Security Service, Nairi, Aparan, and Meghri TDFs at the time of the visit.

The Defender welcomes the information received from the National Security Service and the Police that TDFs have been supplied with feminine hygiene products.

During visits, issues related to laundry organization in TDFs were recorded. Thus, laundry in TDFs is done using washing machines available there. In TDFs, laundry is organized and ironed on-site by the TDF cleaner. According to the information received, the drying of laundry is carried out on the premises of police departments.

It should be noted that at the time of the visit, although washing machines were also available in the Ashtarak and Aparan departments, they were not in use. In the Aparan department, the washing machine was not connected to the drainage system, and in Ashtarak TDF, the washing machine was not used, as the TDF laundry is done in the laundry of "Ashtarak Medical Center" CJSC, based on a verbal agreement.

Considering that numerous detained persons enter and are held in TDFs, who may be carriers of various infectious diseases, it is necessary to have a uniform disinfection method in TDFs, also providing standards for disinfection of bedding and linens, which will exclude the possibility of spreading infectious diseases.

In this regard, the Police reported that in implementation of the above, the Hygienic Anti-Epidemic Control Center (HAECC) of the Medical Department of the RA Police provided all police departments with disinfectants and guidelines for their use for the purpose of organizing disinfection of premises and linens in TDFs, which is welcome.



Toilets

As a result of the visits, issues were also recorded regarding the lack of linens in TDF cells and their accessibility to detained persons.

In some cases, the bedding in TDFs, including mattresses and pillows, were worn out and new sets were not available (particularly in Hrazdan TDF). According to the information received, TDFs last received new sets of linens in 2020-2021.

During the visit, it was found that in Yeghegnadzor, Vayk, Sisian Meghri, Nairi and Ashtarak TDFs, clean bedding was kept in separate cabinets, and they were placed on cell beds wrapped in plastic bags. In the National Security Service, Kapan, Goris, Hrazdan and Aparan TDFs, clean bedding was not placed in cells and was kept in TDF cabinets.

It should be emphasized that the absence of linens in TDF cells and the lack of opportunity for detained persons to use linens independently may keep the latter dependent on TDF officers.

The Defender welcomes the fact that according to information received from the National Security Service, TDF cells have been equipped with bedding.

Thus, it is necessary to:

- ✓ ***separate the bathroom and toilet in TDFs;***
- ✓ ***adapt TDF toilets to the needs of persons with mobility issues;***
- ✓ ***exclude the possibility of direct observation of the TDF toilet and shower cabin, ensuring the right to privacy;***
- ✓ ***constantly provide TDFs with feminine hygiene products;***
- ✓ ***take steps to ensure permanent and round-the-clock water supply in Nairi TDF;***
- ✓ ***ensure the availability of clean bedding in TDF cells;***
- ✓ ***provide TDFs with new bedding.***

3) Representatives of the National Preventive Mechanism have recorded that during 2023, food for detained persons in monitored TDFs was provided through delegated services, based on relevant contracts with private organizations.

It should be noted that the amount allocated for providing food to one detained person in TDF for one day has increased from 1200 AMD to 1550 AMD (for pregnant women, nursing mothers, minors and patients from 1400 AMD to 1750 AMD), which is welcome.

Nevertheless, the amount allocated for providing food to a detained person in TDF continues to be small, which is why few private organizations apply for food supply tenders.

It should be emphasized that food is transported to TDF either by a private organization or by police officers.

Moreover, during the monitoring visits, it was recorded that there are cases when police officers provide food to detained persons at their own expense or by treating them with their food.



Meal

Another issue is providing a three-time meal regime in TDFs as stipulated by legislation. It should be emphasized that in Sisian, Kapan and Meghri TDFs, food was provided 3 times a day, and in Nairi, Hrazdan, Aparan, and Ashtarak TDFs - 2 or 3 times.

Despite the fact that according to the weekly menu set in Annex 1 of the "Contract for Purchasing Food Service for Police Needs", the supplier provides food to Vayk TDF three times a day, in Yeghegnadzor and Vayk TDFs the amount allocated for providing food to a detained person is only enough for one meal. Detained persons satisfy their hunger with leftovers from the one-time food provided in the morning or with parcels brought by relatives.

Thus, under such conditions, in all cases when detained persons are admitted to TDF in the evening hours, they are not provided with food (dinner) on that day.

It should be emphasized that the legislator has provided for minimum portions of food to be provided to detained persons in TDFs, but has not regulated the issue of how many times a day a person held in TDF should be provided with food, which has formed a differentiated practice regarding this.

Nevertheless, considering the fact that in order to provide sufficient food for the health preservation of a detained person, the legislator has provided for the obligation to provide food three times a day in a penitentiary institution, such an approach should be equally applicable to detained persons held in TDFs.

Based on the above, it is necessary to provide at the legislative level the obligation to provide three meals a day to persons deprived of liberty held in TDFs.

During visits, the food and menus provided to persons deprived of liberty in TDFs were also examined.

For example, in Nairi TDF, detainees were mainly provided with shawarma, kebab and salad, while in Ashtarak TDF - french fries, mashed potatoes, kebab, sandwiches and sausages.

In this regard, a question arises as to how police officers monitor compliance with the minimum daily food rations for persons deprived of liberty as defined in the Annex to Government Decree No. 587-N of May 15, 2003 "On Establishing Minimum Rations for Providing Free Food to Persons Held in Detention Facilities".

In another case, an examination of the menus at the National Security Service TDF revealed that breakfast and dinner consisted of canned porridge with pork and green peas, tea, sugar and sweets, while lunch consisted of canned yoghurt soup and dolma, juice and sweets. With such a menu, persons deprived of liberty are not provided with foods prescribed by the aforementioned Government Decree, such as bread, milk, eggs, fish, pasta, cereals, etc., which is unacceptable.

Thus, during detention in TDFs, persons deprived of liberty are not provided with the minimum food rations prescribed by the Annex to Government Decree No. 587-N of May 15, 2003 "On Establishing Minimum Rations for Providing Free Food to Persons Held in Detention Facilities".

Another issue is providing appropriate food to foreign citizens or others in TDFs when there are cultural and/or religious beliefs that preclude the consumption of certain foods. For example, citizens of Iran do not eat pork, so when breakfast and dinner in a TDF consist of canned porridge with pork, this can already be an obstacle to providing adequate food corresponding to the needs of the person deprived of liberty.

This situation can also create difficulties in providing food to persons deprived of liberty who suffer from chronic diseases and require special diets.

The rooms designated for food storage in the examined TDFs were equipped with refrigerators and electric stoves. Only the Aparan TDF lacked a refrigerator, which according to the information received was out of order and sent for repair. The stoves in the Meghri and Aparan TDFs were worn out and rusty, and the stove in the Aparan TDF also did not heat up sufficiently. The kitchen of the Goris TDF was also equipped with a microwave oven, which is commendable.

It should be noted that in response to problems recorded by the Defender's representatives regarding malfunctioning stoves in TDFs, the Ministry of Internal Affairs stated that the possibility of heating food is not provided for in TDFs, since food in TDFs is provided hot, and food requiring heating is not accepted through deliveries.

In this case, questions arise both about the appropriateness of equipping TDFs with stoves (during visits it was recorded that almost all TDFs were equipped with stoves), as well as about providing cold food to persons deprived of liberty without heating in case of cold weather conditions or other objective circumstances causing hot dishes to cool down.

During visits, it was recorded that deliveries brought to persons deprived of liberty in TDFs are checked by officers using knives and forks. Special technical means are absent, which remains a systemic problem in all TDFs.



Walking area

Therefore, it is necessary to:

- ✓ *Review the amount of money allocated for providing food to one person deprived of liberty in a TDF for one day;*
- ✓ *Legislatively enshrine the obligation to provide three meals a day necessary for maintaining the health of persons deprived of liberty held in TDFs;*
- ✓ *Develop effective mechanisms for providing food to persons deprived of liberty admitted to TDFs in the evening hours;*
- ✓ *Equip TDFs with special technical means for checking deliveries, eliminating unnecessary fragmentation and spoilage of food;*
- ✓ *Take steps to provide persons held in TDFs with food corresponding to their cultural and/or religious beliefs, as well as special (dietary) food, as necessary;*
- ✓ *Take steps to introduce mechanisms and legislative regulations for monitoring compliance with food safety and minimum daily rations established by law for food provided to persons deprived of liberty by private companies.*

4) During monitoring activities, representatives of the National Preventive Mechanism also recorded issues related to ensuring outdoor exercise for persons deprived of liberty in Temporary Detention Facilities (TDFs).

Throughout 2023, the exercise yards of the examined TDFs were generally equipped with shelters for protection from adverse weather conditions, benches, and trash bins. However, the shelter installed in the exercise yard of the Goris TDF had cracks, and its edges did not fully cover the area of the yard where the bench was located, resulting in the worn bench and adjacent wall being damp and mossy.

The exercise yards of the examined TDFs were also equipped with facilities and equipment for physical exercise (with the exception of Goris and NSS TDFs). The Hrazdan TDF had two separate exercise yards, one of which lacked a trash bin and exercise equipment, while the other lacked a trash bin and bench.

It should be noted that the exercise yards of the examined TDFs were only accessible by stairs, making them inaccessible to persons with mobility difficulties (Hrazdan, Yeghegnadzor, Vayk, Goris, Sisian, Kapan, Aparan, and Meghri TDFs). Moreover, the stairs to the TDF exercise yards generally lacked handrails.

Consistent steps should be taken to make TDF exercise yards accessible to persons with mobility issues.

Simultaneously, it is extremely concerning that the registers of the Goris TDF almost entirely lacked data on taking persons deprived of liberty out for exercise. This raises reasonable concern about properly ensuring the legally mandated minimum of 1 hour of outdoor exercise opportunity for persons deprived of liberty.

It should also be noted that the exercise yards of Aparan, Nairi, and Hrazdan TDFs required cleaning and improvement work.

Therefore, it is necessary to:

- ✓ ***Provide TDF exercise yards with adequate shelter of sufficient size to protect from adverse weather conditions;***
- ✓ ***Ensure unimpeded accessibility to exercise yards for persons with mobility issues;***
- ✓ ***Equip TDFs with opportunities for physical exercise;***
- ✓ ***Carry out necessary cleaning work in TDF exercise yards.***

5) During monitoring visits, the presence, suitability, and applicability of fire safety systems in TDFs were also examined, as well as the availability of evacuation plans and the preparedness of police officers.



Walking area

Fire safety systems in TDFs primarily consisted of fire extinguishers. It is extremely concerning that fire safety equipment was entirely absent in the Aparan TDF.

In the Vayk TDF, fire extinguishers were located in the duty room, while in the Yeghegnadzor TDF, they were in the medical examination room. According to the staff of the Yeghegnadzor TDF, newly provided fire safety equipment had not yet been installed. The Kapan TDF was also supplied with new fire extinguishers, which had not yet been installed.



Walking area

It should be emphasized that the production year of fire extinguishers in the Hrazdan TDF had been erased, while in the Goris, Meghri, and Ashtarak TDFs, the fire extinguishers were produced in 1995, despite the maximum service life of fire extinguishers being 15 years.

The Ombudsman welcomes the information received from the Ministry of Internal Affairs that expired fire extinguishers in TDFs have been replaced with new ones.

Based on the above, it is necessary to provide all TDFs with proper fire safety systems.

7.3. Provision and Documentation of Medical Assistance

During the monitoring activities of the National Preventive Mechanism, the organization of medical assistance and services for detained and arrested persons was examined, including the medical examination of persons deprived of liberty and the proper documentation of its results.

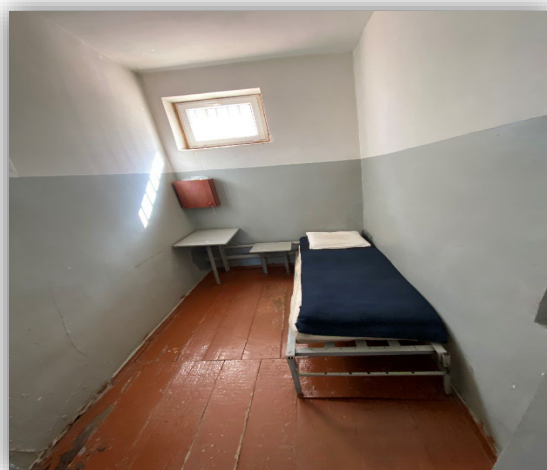
For the organization of medical assistance and services in Temporary Detention Facilities (TDFs), it is important to ensure proper conditions and purposeful use of medical examination rooms. In this regard, it remains concerning that in some TDFs, rooms designated for medical examinations are combined with rooms serving other purposes.

The National Security Service (NSS) TDF does not have a separate, properly furnished medical examination room, and medical examinations are conducted in a room with other purposes, which also serve for organizing visits and investigative actions.

The medical examination room in the Yeghegnadzor TDF simultaneously served as a TDF officer's room and was used for organizing searches of persons deprived of liberty. Moreover, in the Yeghegnadzor TDF, one of the former cells was allocated for medical examinations, which lacked adequate lighting and could not provide proper conditions for conducting medical examinations. At the time of the visit, numerous objects unrelated to medical examinations were stored there, including cleaning and disinfecting agents.

During the visit, it was recorded that some TDF medical examination rooms were not provided with natural lighting; windows were absent, which is concerning from the perspective of proper organization of medical examinations (Vayk TDF).

It should be emphasized that medical examinations of persons deprived of liberty, conducted for the purpose of preventing torture and ill-treatment, should be carried out under sufficient natural lighting to ensure an accurate description of injuries.



Medical examination room

It also remains problematic that not all examined TDFs had medical examination rooms equipped with running water and a sink (NSS, Ashtarak TDF). In the NSS TDF, the medical examination was organized in a room that was not equipped with a medical couch, resulting in medical examinations being conducted on several chairs placed close together.

The Ombudsman welcomes the information received from the NSS that a room for medical examinations has been designated in the NSS TDF, which has been furnished with a medical couch and a medicine cabinet.

The inadequate conditions of rooms designated for medical examinations do not contribute to the proper realization of the right to health preservation.

An important component of medical assistance and services in TDFs is also the provision of necessary medications and medical supplies to persons deprived of liberty.

In this regard, during the visits, the medicine cabinets in TDF medical examination rooms and their contents were examined. It was recorded during the visit that the range of medications available in TDFs varied significantly.

Thus, unlike TDFs operating within the Police system, the medicine cabinet of the NSS TDF contained a much larger range of medications. According to the information received, the fact of being equipped with such a range of medications was not regulated by any legal act.

The Ombudsman emphasizes that the use of various groups of pain-relieving medications, ammonia spirit, solutions for wound treatment, and antihypertensive medications without medical indication should be excluded.

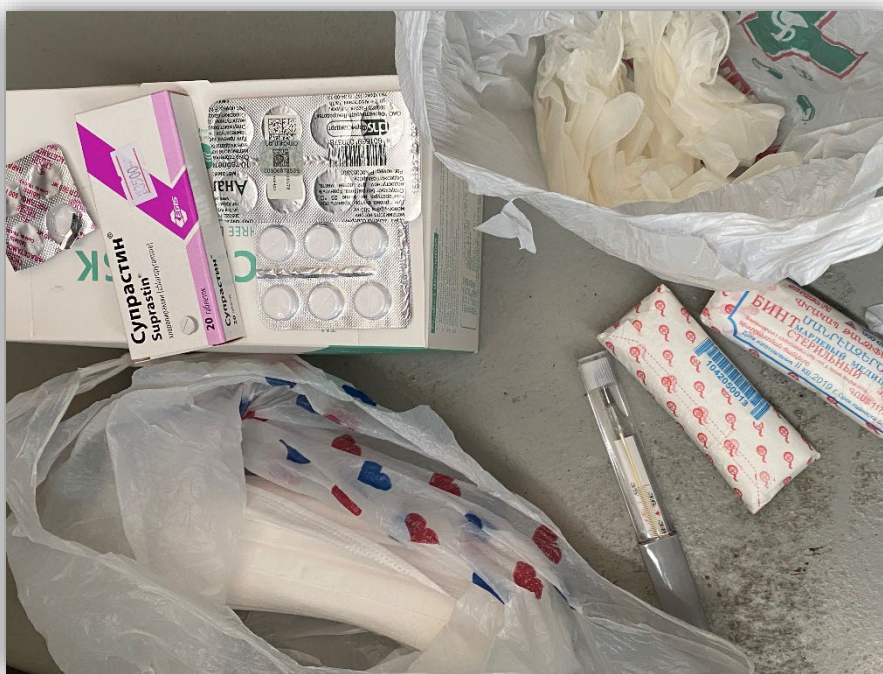
At the time of the visit to the Hrazdan TDF, antihistamine (antiallergic) medications were not available either in the list approved by the seal and signature of the Head of the Hrazdan Police Department or in the medicine cabinet. Not all monitored TDFs had rubber tourniquets for use during bleeding (Hrazdan TDF).

The presence of non-uniform medication lists in TDFs operating in the Republic of Armenia is concerning and may be problematic from the perspective of ensuring the right to health preservation of persons deprived of liberty.

The medications in the medicine cabinets of the observed TDFs were generally within their expiration dates (with the exception of one blister each of "Paracetamol" and "Suprastin" medications recorded in the Goris TDF, which had expired months before the visit, iodine solution recorded in the Ashtarak TDF, which had expired 1 month before the visit, as well as expired medications and syringes found in the NSS TDF).



Medications



Expired medications

In the NSS TDF, some pills were stored outside of blisters or boxes, in single-use, sealed plastic bags without labeling, and their expiration dates were not recorded on them.

There are also medications with cut blisters in TDF medicine cabinets, whose expiration date section is also missing, making it impossible to determine the expiration date of the given medication. This is problematic from the perspective of controlling medication expiration dates.

It should be specifically emphasized that the use of expired medications is unacceptable, and proper control should be exercised over the storage of medications.

It is important to emphasize not only the presence of medicine cabinets, medications, and other medical supplies in TDFs but also the proper storage conditions of medical supplies.

In particular, during the visit to the Yeghegnadzor TDF, it was recorded that medical supplies in the medicine cabinet, including sterile medical dressings, were stored out of their boxes in an open state.

It is unacceptable to store medical supplies in improper conditions, without observing sanitary and hygienic norms.

It should also be noted that it remains concerning that in all observed TDFs, some pills from the medication blisters were used. Still, there were no records on the use of medications and their justification, and it is unclear to whom and for what purpose these medications were provided. Moreover, during monitoring visits, representatives of TDF administrations assured that medications from the TDF medicine cabinet are generally not provided to persons deprived of liberty by police officers; in case of necessity, an emergency medical service brigade is mandatory, and medications are provided by medical personnel.

In this context, questions arise regarding the necessity of medicine cabinets, medications, and other medical supplies in TDFs, and the justifications for their use.

The use of medications in TDFs without medical justification is concerning and problematic from the perspective of ensuring the right to health preservation of persons deprived of liberty.

The representatives of the National Preventive Mechanism continue to record a number of issues related to the initial medical examination of each person admitted to temporary detention facilities (TDFs).

During monitoring visits, it was observed that the practice continues whereby persons admitted to TDFs are subjected to medical examination through emergency medical services only when injuries are detected or complaints are presented by the detained persons.

For instance, a person entering the National Security Service (NSS) TDF is subjected to medical examination only if bodily injury or obvious signs of illness are detected, or if a health complaint is presented. This is carried out if injuries or symptoms of illness are discovered by TDF officers during the search process. Another issue is the "professional" capacity of TDF officers to recognize symptoms of diseases.

Moreover, the study recorded that a person deprived of liberty responds to an inquiry addressed to the head of the NSS TDF by asserting that "I have no health problems and do not need urgent medical assistance," for which they sign, indicating their personal data and the date.

It should be emphasized that Government Decree No. 731-N of June 28, 2007, *"On Approving the Internal Regulations of Detention Facilities Operating in the National Security Service System,"* stipulates in Paragraph 11 of the Annex that if bodily injury or obvious signs of illness are detected in a detainee, or if there is a health complaint, the head of the TDF shift shall summon a medical worker.

This regulation contradicts both international regulations on the issue and significantly differs from the requirements of Government Decree No. 574-N of June 5, 2008, *"On Approving the Internal Regulations of Detention Facilities Operating in the Police System of the Republic of Armenia,"* which establishes a mandatory requirement for immediate medical examination. According to the

aforementioned decree, persons admitted to TDFs are subject to medical examination, for which emergency medical services are immediately summoned by the shift supervisor.

According to subparagraph (e) of paragraph 10 of the UN Committee against Torture's concluding observations on the fourth periodic report of the Republic of Armenia, *the state should take effective measures to ensure that all persons deprived of their liberty have the opportunity to benefit from all fundamental legal guarantees aimed at preventing torture from the initial moment of deprivation of liberty, in accordance with international standards.*

One such right is the right to be examined by an independent physician, which should be performed out of hearing range of police personnel and, unless the doctor concerned requests otherwise, out of sight. The state should practically guarantee the independence of doctors and other medical personnel dealing with persons deprived of their liberty, ensuring that they properly record and document any signs and suspicions of ill-treatment or torture³⁴.

The Committee for the Prevention of Torture (CPT) also addressed this issue in its 2016 report on Armenia. In particular, the CPT, reaffirming the recommendations made in previous years' reports, noted that *the initial medical examination of a person upon admission to a place of detention, especially the recording and reporting of injuries received, is not properly carried out.*

It should be emphasized that any person entering a TDF should undergo an external medical examination, regardless of whether they request a medical examination or have visible bodily injuries.

Thus, in the Republic of Armenia, issues of protection of the rights of detained persons in TDFs operating under different departmental subordinations are regulated by legal acts containing significantly different provisions.

Therefore, it is necessary to take urgent steps to develop unified approaches and requirements at the legislative level regarding the protection of the rights of detained persons in the Republic of Armenia.

During the visits, examination of the "Registry of Persons Held in TDFs" and "Registry of Medical Examinations or Medical Assistance for Detained Persons" revealed that medical examinations of persons deprived of liberty by emergency medical service teams were sometimes carried out immediately within a few minutes after admission to the TDF, and in some cases after a considerable time. For example, in Nairi TDF, cases were recorded where emergency medical services arrived 3 hours after the call. It is noteworthy that in regional communities, emergency medical service vehicles are scarce, resulting in service teams often being unable to reach TDFs, and when they do, they arrive long after the call.

Examination of the NSS TDF registries revealed that on non-working days and hours, a person admitted to the TDF is not subjected to a medical examination; it is organized only on the next working day or as needed.

The study of TDF registries also recorded cases where emergency medical services were called and arrived earlier than the person was admitted to the TDF (Nairi, Aparan, and Yeghegnadzor TDFs).

For instance, an examination of the "Registry of Persons Held in TDF" in Aparan revealed that in practice, emergency medical services arrive 10-15 minutes before the person is admitted to the TDF, and emergency medical services are called 20-30 minutes before the person enters the TDF.

³⁴ See on

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fARM%2fCO%2f4&Lang=en as of 29.03.2024.

Examination of the Yeghegnadzor TDF registries recorded a case where an emergency medical service team was called on August 12, 2023, at 03:00 to organize a medical examination of a person deprived of liberty; they arrived at 03:10, while the person was admitted to the TDF at 03:10 and underwent medical examination at 03:19.

In Nairi TDF, a person deprived of liberty was admitted to the TDF on June 25, 2023, at 03:15, while on the same day at 02:48, the summoned emergency medical service team arrived at 03:00.

This raises reasonable concerns about the authenticity of the data recorded in TDF registries.

Another issue is the incomplete recording of information in the relevant registers of temporary detention facilities (TDFs) regarding the time of calling and arrival of emergency medical services, as well as the time of conducting medical examinations of detainees.

Studies have shown that in the "Register of Persons Held in TDFs," the column for "Month, year, hour, and minute of calling and arrival of 'Emergency Services'" typically records only one data point at best, making it difficult to assess the time intervals between calling for emergency medical services and their arrival (Hrazdan and Goris TDFs).

Moreover, in the "Medical Examination or Medical Assistance" registers of the National Security Service, Vayk, and Sisian TDFs, information regarding the time of medical examinations was absent. In some cases, the "Register of Persons Held in TDFs" at the Vayk TDF also lacked information on the time of calling and arrival of "Emergency Services."

The absence of information about the time of medical examination in the corresponding protocol makes it impossible to determine when the medical examination of the detainee was conducted, how long after admission to the TDF, and when complaints and injuries were identified.

An important component of organizing medical care and services is ensuring the preservation of medical confidentiality for detainees.

It remains problematic that initial medical examinations of detainees in TDFs continue to be conducted in the presence of law enforcement officers.

Furthermore, a review of the "Medical Examination or Medical Assistance for Detained Persons" registers revealed that even in cases where a detainee's medical examination was conducted by an emergency medical service physician, personal data and complaints of the detainee were sometimes recorded by law enforcement officers.

The "Medical Examination or Medical Assistance for Detained Persons" registers are kept by TDF officers.

Thus, it can be concluded that medical confidentiality and medical ethics norms are not maintained in TDFs.

In this regard, it should be emphasized that medical examinations should be conducted only by a physician and out of the hearing range and visual field of detention facility staff.

The study revealed that in some cases, records in the "Register of Persons Held in TDFs," "Medical Examination or Medical Assistance for Persons Admitted and Held in TDFs," and "Removal of Persons Held in TDFs from Cells" registers regarding the organization of medical care for persons held in TDFs did not correspond.

For example, according to the "Removal of Persons Held in TDFs from Cells" register at the Yeghegnadzor TDF, a detainee was in the medical room with a forensic doctor at 12:16 on July 11, 2023. However, according to the "Medical Examination or Medical Assistance for Persons Admitted and Held

in TDFs" register, at the same time, the detainee underwent a medical intervention by an emergency medical service physician, and a "wound treatment" was performed.

In fact, a comparison of the registers revealed that they do not always contain accurate information about detainees.

It should also be noted that the study of the registers revealed changes and deletions in the recorded data of the date and time of medical examinations or first aid, particularly in the registers where the timing of medical assistance was generally aligned with the data recorded in the "Register of Persons Held in TDFs" (Yeghegnadzor and Goris TDFs).

Issues were also recorded in the procedures for registering detainees in the "Removal from Cell" register when a person was removed from the cell for medical assistance.

For example, a study of the "Medical Examination or Medical Assistance for Persons Admitted and Held in TDFs" register at the Yeghegnadzor TDF revealed that on May 24, 2023, at 01:53, while already being held in the TDF, a detainee was removed from the cell, underwent a medical examination, and first aid measures were taken. However, there was no corresponding record in the "Removal from Cell" register. It is noteworthy that, according to law enforcement officers, medical examinations of detainees are always performed in the medical examination room.

In another case, a study of the "Removal from Cell" register at the Nairi TDF revealed that a detainee returned from a medical examination earlier than the time recorded for the medical examination in the "Medical Examination or Medical Assistance for Detained Persons" register.

In yet another case, according to the "Removal from Cell" register at the Goris TDF, a detainee was taken to the medical room "to receive methadone" between 10:40 and 10:45 on October 17, 2023, but there was no information about this in the "Medical Examination or Medical Assistance for Persons Admitted and Held in TDFs" register.

Thus, the untimely organization of medical examinations for persons admitted to TDFs or the improper recording of their implementation does not serve the main purpose of effective investigation and detection of cases of torture and ill-treatment, as well as their prevention.

The results of monitoring visits also indicate that initial medical examinations and proper professional documentation thereof were not carried out in TDFs.

Emergency medical service physicians did not record a complete picture of the results of objective medical examinations, sometimes failing to describe the precise anatomical location, color, surface area, and other criteria describing injuries.

For example, a study of the aforementioned register at the Vayk TDF revealed that on July 13, 2023, an initial medical examination of a detainee recorded a "skinned wound," without describing the precise anatomical location, color, surface area, and other criteria describing the injury, or possible causes of the injury. Moreover, regarding the same person, according to the corresponding record in the "Medical Examination or Medical Assistance for Persons Admitted and Held in TDFs" register, upon admission to the TDF on July 12, 2023, at 22:05, "there is a bandage in the right foot area, according to the person's statement, a surgical suture was placed at the Yeghegnadzor Medical Center."

A similar case was recorded in the study of registers at the Yeghegnadzor TDF, where on June 17, 2023, at 07:15, a medical examination of a detainee recorded "superficial, crusted wounds in the facial area, NCA," but no other data about the injury were recorded, which would be important for properly organizing the subsequent investigation of alleged ill-treatment.

The absence of recording the aforementioned criteria in the initial examination does not serve the main purposes and requirements of the initial examination.

In connection with the absolute prohibition of torture, the international community has developed a number of standards for protecting, preventing, and detecting torture of persons deprived of liberty.

Thus, the UN Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), revised in 2022, contains important criteria for the effective investigation of cases of torture and ill-treatment. It provides guidelines for investigating cases of alleged torture and other forms of ill-treatment, medical examination of victims, and presenting the obtained information to competent authorities.

The role of the protocol drawn up as a result of the medical examination is emphasized in relation to cases of torture and other forms of ill-treatment, which can be essential for their detection.

The aforementioned protocol provides standards for the medical examination of persons subjected to torture and ill-treatment. According to it, the examiner should note all relevant positive and negative data, recording the location and nature of all injuries using a schematic representation of the human body. For this purpose, special forms are provided that contain anatomical diagrams of men and women with appropriate guidelines for making notes.

These also have preventive significance, and the application of the forms and guidelines contained in the protocol by independent medical specialists will significantly contribute to the effective investigation and detection of cases of torture and ill-treatment, as well as their prevention.

The European Court of Human Rights has also emphasized the importance of applying the principles and guidelines of the protocol in investigating cases of torture when assessing the legality of states' actions in the context of Article 3 of the European Convention.

In this regard, it should be noted that, unlike the Police and National Security Service TDFs, the Ministry of Justice approved forms and guidelines for conducting and recording medical examinations related to torture and other forms of ill-treatment for use in penitentiary institutions in 2021.

Given the above, the issue of introducing similar forms and guidelines in TDFs remains relevant.

The development of appropriate forms and guidelines, training of TDF nurses and emergency medical service physicians based on them, and their practical application will further contribute to the prevention of torture and other forms of ill-treatment.

It is also concerning that TDF officers were generally unfamiliar with new legislative regulations related to detention facilities. In particular, according to information received from one TDF, persons with mental health problems were not admitted to TDFs. According to law enforcement officers, data on persons registered for psychiatric care in their region are kept in the police card index, to which they have access. According to the officers, if there is data in the card index about a person being registered for psychiatric care, they are not admitted to the TDF.

It is evident that having mental health issues cannot be grounds for not admitting persons deprived of liberty to Temporary Detention Facilities (TDFs). Moreover, only with a written conclusion from an emergency medical service professional, in cases requiring specialized inpatient and immediate medical care, should an individual be transferred to a specialized medical care and service institution.

Another systemic issue is the organization of medical care and services for individuals enrolled in methadone treatment programs.

According to the received information, for persons deprived of liberty who are enrolled in methadone substitution treatment programs, emergency medical services were called in case of complaints, which, in the event of withdrawal syndrome, only provided primary medical care.

Difficulties have also been recorded in the process of presenting documents certifying enrollment in methadone substitution treatment programs to TDF officers. For example, a person deprived of liberty did not wish to inform close relatives about their enrollment in a methadone substitution treatment program (the relevant medical confidential document was at home), but could not otherwise substantiate this to TDF officers.

Moreover, even with the presence of a document certifying enrollment in a methadone substitution treatment program, TDF officers had difficulties organizing the storage and provision of the prescribed liquid medication.

The issue is more pressing in TDFs located in regions, as the aforementioned substitution treatment programs are implemented by the "National Center for Addictions Treatment" CJSC, which is located in Yerevan. Furthermore, addiction treatment programs are implemented in only three regions of the Republic of Armenia.

In this situation, the person's treatment is interrupted, which not only hinders the effectiveness of methadone substitution treatment but can also be an obstacle to re-enrollment and continuation of treatment in the methadone substitution treatment program in the future.

Therefore, it is necessary to:

- ✓ ***Organize medical examination for each person entering a TDF and properly record it (including the time of medical examination), regardless of whether they present complaints, request examination, or have visible bodily injuries.***
- ✓ ***Take urgent steps to enshrine in legislation a provision requiring medical examination immediately after admission to the National Security Service TDF, regardless of whether the person presents a complaint or has obvious injuries.***
- ✓ ***In TDFs, separate the area designated for medical examination and medical care from rooms with other purposes.***
- ✓ ***Equip the medical examination room in TDFs with at least a sink, running water, and a medical couch.***
- ✓ ***Ensure an adequate level of natural lighting in TDF medical examination rooms.***
- ✓ ***Exclude the presence and participation of non-medical staff during medical care and services in TDFs.***
- ✓ ***Eliminate the presence of expired and unknown expiration date medications in TDF medicine cabinets.***
- ✓ ***Equip TDFs with the appropriate list of medical supplies and medications approved by the Medical Department of the Police of the Republic of Armenia.***
- ✓ ***Develop forms and relevant guidelines for recording torture and other forms of ill-treatment in police TDFs.***
- ✓ ***In cooperation with competent authorities, conduct professional training for emergency medical service doctors on the proper recording of injuries and its purpose.***
- ✓ ***Provide medication to persons deprived of liberty only after medical examination and prescription, and record this in the appropriate register.***

- ✓ *Develop mechanisms to ensure continuity of treatment for persons admitted to TDFs who are enrolled in methadone substitution treatment programs, and inform TDF officers about this.*
- ✓ *Regularly inform TDF officers about legislative regulations in the field.*

7.4. Proper Maintenance of Registers

Studies conducted by the Ombudsman's representatives have identified several issues related to the improper maintenance of registers in Temporary Detention Facilities (TDFs).

Specifically, at the time of the visit, some TDFs were still using outdated register templates that had lost their relevance and did not include the collection of information that would contribute to both the prevention of torture and ill-treatment, as well as the proper protection of the rights of persons deprived of liberty (Kapan TDF).

Examination of the "Register of Persons Detained in TDFs" revealed that in some cases, these did not contain the required comprehensive information. In particular, only the date and time of arrest of the person deprived of liberty were recorded, but the time of entry into the TDF was not indicated, or vice versa (TDFs in Ashtarak, Aparan, Hrazdan, Nairi, Sisian, and Goris).

For instance, an examination of the "Register of Persons Detained in TDFs" in Sisian and Goris TDFs revealed that in the column "Date, month, year, hour, minute of deprivation of liberty, decision to arrest, and entry into TDF," only one data point was entered, making it unclear whether this was the time of the arrest decision, deprivation of liberty, or entry into the TDF.

It should be noted that as a result of the above, it was not possible to determine how long after a person enters into the TDF their medical examination was conducted. In this case, it was only possible to verify the approximate data of the detainees' entry into the TDF by cross-referencing with the "Register of Medical Examinations or Medical Assistance for Detained Persons."

Examination of the "Register of Persons Detained in TDFs" at Yeghegnadzor TDF also revealed that the columns titled "Grounds for release from TDF, day, month, year, hour, minute" were not filled in at all, which is highly concerning. In some cases, similar issues were recorded in the examination of registers at Vayk and Goris TDFs.

Problems were also identified regarding the proper completion of the "Register of Removing Persons Detained in TDFs from Cells."

For example, an examination of the "Register of Removing Persons Detained in TDFs from Cells" at Yeghegnadzor TDF revealed that in some cases, persons deprived of liberty were removed from cells for investigative actions, to be presented to the preliminary investigation body, or to be transferred to court for participation in court sessions. However, the column "Date, month, year, and duration of removal" was not properly completed, specifically, it was not recorded how long after the person deprived of liberty was returned to the TDF. Given that the columns titled "Grounds for release from TDF, day, month, year, hour, minute" in the "Register of Persons Detained in TDFs" at Yeghegnadzor TDF were not filled in at all, it is unclear whether in these cases the person deprived of liberty was released or returned to the TDF after the completion of procedural actions.

In the same register at Hrazdan TDF, the grounds for removing a person deprived of liberty from the cell were not recorded, which is concerning.

It should also be noted that in the "Register of Removing Persons Detained in TDFs from Cells" at Yeghegnadzor TDF, data on removing persons detained in the TDF from cells for the purpose of using the sanitary facilities were not recorded. Moreover, during nighttime hours, persons detained in Yeghegnadzor TDF are not removed from cells at all.

Examination of the "Register of Medical Examinations or Medical Assistance for Detained Persons" at the National Security Service TDF revealed cases where a person underwent a medical examination, and first aid measures were taken, but no corresponding entries were made in the register of removal from cells. It is noteworthy that according to TDF officers, medical examinations of persons deprived of liberty are always carried out in the medical examination room.

In other cases, it was recorded that in the "Register of Removing Detained Persons from Cells" at the National Security Service TDF, the date of a person's removal for exercise was recorded, but not the return.

The unclear and improper recording of the hours of removal of persons deprived of liberty from cells is concerning.

Considering the right to personal liberty and the fact that TDFs are places of deprivation of liberty, proper recording and documentation should be carried out regarding the entry, exit, and movement of all persons admitted to TDFs, based on uniform, up-to-date template registers developed by the responsible agency.

7.5. Contact with the Outside World

Maintaining contact with the outside world is of utmost importance for detained persons. Its role is particularly significant as persons deprived of liberty should not lose the social connections they have formed while at liberty.

During monitoring, it was discovered that in almost all Temporary Detention Facilities (TDFs) studied, the two sections of the visitation rooms (sections intended for the person deprived of liberty and the visitor) were separated by a glass partition mounted in a common wall, which limited the possibility of physical contact during visits. Communication between the person deprived of liberty and the visitor was organized through internal telephone communication or through holes in the glass partition.



Meeting room

Moreover, in some cases, there were difficulties in organizing communication between persons in the visitation rooms of the observed TDFs. Specifically, in the sections intended for the person deprived

of liberty and the visitor, the sound was barely audible, and the telephone through which communication was organized was only connected during the observation.

Organizing visits in a room with a glass partition limiting the possibility of physical contact between persons contradicts domestic and international standards.

It is commendable that in the Hrazdan and Nairi TDFs, the two sections of the visitation rooms were not separated by a glass partition, making it possible to ensure physical contact between visiting persons.

It should be emphasized that based on the recommendations presented by the Human Rights Defender as the National Preventive Mechanism, on August 31, 2023, the Government of the Republic of Armenia adopted Decision No. 1487-N "On Defining the Peculiarities of the Construction and Furnishing of Detention Facilities Operating in the Police System of the Ministry of Internal Affairs of the Republic of Armenia." Article 16 of the Annex to this decision provides for the installation of a 20 cm high glass partition on the table in the visitation rooms of TDFs operating in the Police system, which will not restrict physical contact between persons.

In this regard, it should be noted that in the National Security Service TDF, it was possible to organize visits in such a way that persons had the opportunity for physical contact during them. Nevertheless, the legal act regulating the field, specifically Article 11 of the Annex to Government Decision No. 731-N of June 28, 2007, "On Approving the Internal Regulations of Detention Facilities Operating in the National Security Service System," stipulates the requirement to separate the visitation room with a solid barrier and a transparent partition. This approach contradicts international standards and significantly differs from domestic legal regulations applicable to detained persons of the same legal status.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) emphasized in its 2015 report on Austria that visits for persons in custody with their family members should, as a rule, be provided without physical separation. Visits provided with a partition should be an exception and applied in individual cases when there is a security concern.

The European Court of Human Rights has also expressed a position on this issue in the case of *Moiseyev v. Russia*. According to the factual circumstances of this case, the applicant was separated from relatives during visits by a glass partition and communicated with them through internal telephone communication. In this case, the European Court found a violation of the right guaranteed by Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms³⁵.

In its expressed position, the Court particularly noted that although providing visits with a glass partition can be justified by security considerations, this measure cannot be considered necessary in the absence of a justified security risk³⁶.

Thus, it is necessary to align the legal regulations regarding the furnishing of visitation rooms in TDFs operating in the National Security Service system with international standards, as well as with other domestic legal regulations applicable to detained persons of the same legal status.

Another systemic issue is the organization of visits for persons deprived of liberty within the visual and auditory range of TDF officers.

³⁵ See *Moiseyev v. Russia*, judgment of October 9, 2008, application no. 62936/00, paragraphs 80, 257-259.

³⁶ See *Ciorap v. Moldova*, judgment of June 19, 2007, application no. 12066/02, paragraph 117.

According to the information received, visits for persons deprived of liberty in TDFs are organized in the presence of TDF officers, within their auditory range. Moreover, in the Vayq TDF, the section of the visitation room intended for visitors was located in the duty officer's room.

This is concerning from the perspective of ensuring the right to privacy of persons deprived of liberty.

It is commendable that in the Nairi and Hrazdan TDFs, there were glass-separated rooms adjacent to the visitation rooms, from which police officers conduct visual supervision during visits. Such supervision during visits is commendable as it allows police officers to observe but not hear the visiting persons.

It should also be noted that in TDFs operating in the National Security Service system, a legal possibility has been provided to conduct visits with close relatives under the supervision of TDF officers, which is inadmissible. According to Article 37 of the Annex to Government Decision No. 731-N of June 28, 2007, visits with close relatives are conducted under the supervision of TDF officers.

It should be emphasized that it is necessary to initiate legislative changes, establishing only visual supervision over visits of persons deprived of liberty with close relatives, which will allow observing but not hearing the visiting persons.

Creating such conditions is important from the perspective of ensuring the right to privacy of persons deprived of liberty.

The Defender considers it commendable that, according to information received from the National Security Service, steps are being taken to revise the internal regulations of detention facilities operating in the National Security system based on the above observations.

The joint use of the visitation room in TDFs with other purpose-specific rooms is also concerning.

For instance, in the Nairi TDF, the visitation room was combined with the interrogation room; in the National Security Service TDF, it was combined with the interrogation and medical examination rooms; and in the Hrazdan TDF, the admission and search of persons deprived of liberty were also organized in the visitation room.

As a result, it is practically impossible to ensure the simultaneous purposeful use of these rooms, which is concerning.

Monitoring also revealed issues related to payphones (telephone communication) in TDFs.

Specifically, in the Aparan, Nairi, Hrazdan, and Goris TDFs, the payphone was installed in the room intended for visits, making it practically impossible to simultaneously ensure the proper realization of the rights of persons deprived of liberty to use telephone communication and have visits.

In the Yeghegnadzor, Vayq, Kapan, Sisian, and Meghri TDFs, telephones were installed in the corridors of the TDFs, where, except for the Goris and Yeghegnadzor TDFs, the Human Rights Defender's hotline number 116 and instructions on how to call it were also posted.

Although the aforementioned information was posted on the payphones in the Temporary Detention Facilities (TDFs) of Aparan, Nairi, Hrazdan, and Meghri, it was not possible to call the Human Rights Defender's hotline number 116 from these payphones. In the visitation room of the Nairi TDF, there was also a telephone installed, which was out of order.

The National Security Service (NSS) TDF was not equipped with a payphone, and the only telephone was kept disconnected in a locker in the visitation room. Although the TDF's telephone was

operational and it was possible to call the Human Rights Defender's hotline number 116 from it, the room did not have the specified phone number and instructions for calling it posted.

The Defender welcomes the fact that, according to information received from the NSS and the Police, the issues recorded by the representatives of the Human Rights Defender have been rectified, the malfunction of the payphones has been eliminated, and instructions for calling the Human Rights Defender's hotline number 116 have been posted next to the payphones.

During the visits, information was received that there are problems with the availability of payphone cards in the regions of the Republic of Armenia, particularly that they are not sold in the area, resulting in detainees' right to use telephone communication being ensured through the personal phones of TDF officers (Hrazdan TDF).

It should also be noted that during the monitoring visits, issues were recorded regarding the interrogation rooms of the TDFs.

In particular, the wall of the interrogation room in the Sisian TDF, which was adjacent to the sanitary facility, was damp, with its paint and plaster completely peeled off. The interrogation rooms in the Meghri and Hrazdan TDFs required cosmetic repairs, particularly the floors, and in the Hrazdan facility, the furniture was also worn out.

During the visit, it was also recorded that the door of the NSS TDF interrogation room did not meet legal requirements, namely, it lacked a peephole and did not provide adequate sound insulation. However, according to Paragraph 66 of the Annex to Government Decision No. 731-N of June 28, 2007, *the door of the TDF interrogation room should be soundproofed, and to ensure visual supervision of the detainee's meeting with a lawyer or defender, a peephole made of unbreakable organic glass should be installed on the door at a height of 150 cm from the floor, or a camera should be installed in the room that allows seeing but not hearing the conversation between the detainee and the lawyer or defender.*

As a result, it is impossible to maintain the legal requirement of confidentiality for meetings held in the interrogation room of the NSS TDF, including meetings with medical service representatives, lawyers, and investigators, which is unacceptable.

During the monitoring visits, it was recorded that in the cells of the observed TDFs, the daily schedule and a leaflet on the rights and obligations of detainees were generally posted. It is noteworthy that in the observed TDFs, the daily schedule and the rights and obligations of detainees were exclusively in Armenian. This is particularly problematic considering that foreign nationals who do not speak Armenian are also held in TDFs.

Thus, taking into account the above, it is necessary to:

- ✓ *Make appropriate amendments to the Annex of Government Decision No. 731-N of June 28, 2007, to eliminate the requirement of separating the visitation room with a solid barrier and transparent partition that limits the possibility of physical contact.*
- ✓ *Make appropriate amendments to the Annex of Government Decision No. 731-N of June 28, 2007, to establish only a visual supervision requirement for visits between detainees and their close relatives.*
- ✓ *Ensure that visits for detainees are organized without a glass partition that limits the possibility of physical contact.*
- ✓ *Exclude the presence of TDF officers during detainees' visits, implementing only visual supervision as necessary.*

- ✓ *Separate the visitation room in TDFs from rooms with other designated purposes.*
- ✓ *Separate the payphone in TDFs from the room designated for visits, ensuring detainees' ability to have confidential phone conversations and visits.*
- ✓ *Continuously monitor the functionality of TDF payphones and the ability to make free calls to the Human Rights Defender's office hotline.*
- ✓ *Post instructions for calling the Human Rights Defender's hotline number 116 next to the TDF telephone (payphone).*
- ✓ *Present and provide the rights and obligations of detainees to foreign nationals held in TDFs who do not speak Armenian in a language they understand.*

7.6. Audio-Video Recording and Video Recording Systems

During monitoring visits, the representatives of the Defender also examined the audio-video recording systems in Temporary Detention Facilities (TDFs), their placement, the field of view of the cameras, as well as the possibility of storing and accessing audio-video recordings.

It was recorded that the cameras installed in the corridors of TDFs generally allow only real-time online video monitoring, while video or audio-video recording is not carried out.

This is problematic from the perspective of preventing torture and ill-treatment in TDFs and conducting effective investigations into such incidents.

It should be emphasized that audio-video recording is carried out by cameras installed in the corridors of Goris and Kapan TDFs, which is commendable. However, due to technical reasons, the representatives of the National Preventive Mechanism were unable to observe their operation.

In connection with the above, it should be noted that according to Paragraph 22 of the Annex to Government Decision No. 1487-N of August 31, 2023, "On Defining the Peculiarities of the Construction and Furnishing of Temporary Detention Facilities Operating in the Police System of the Ministry of Internal Affairs of the Republic of Armenia": TDFs are equipped with alarm signaling systems connected to the duty unit (duty service), cameras with audio-video recording capability, which are installed at entrances, corridors, and exercise yards, as well as cameras with video recording capability only, which are installed in interrogation and visitation rooms. Audio-video recording and video recording are prohibited in cells, medical rooms, shower rooms, and toilets.

Therefore, it is necessary to:

- ✓ *Take urgent steps to equip TDFs with audio-video recording and video recording systems in accordance with legal requirements.*
- ✓ *Define the scope of persons who have access to audio-video recordings and video recordings, as well as the retention periods for such recordings.*

7.7. Presence of Special Means in Temporary Detention Facilities (TDFs)

Monitoring results have recorded that special means were kept in some TDFs at the time of the visit. It should be emphasized that among the special means practically used, there were electric shock devices and batons with electric shock protrusions.

This is concerning, taking into account the international practice of using special means in TDFs.

It should be emphasized that the absence of domestic regulations on this issue is also highly concerning.

Thus, according to the requirements of Article 37 of the Law on "Keeping Arrested and Detained Persons" of the Republic of Armenia, *the use of physical force, special means, and firearms by officers of detention facilities for arrested and detained persons, and other persons involved in maintaining order, is permitted only on the grounds and in cases specified by law.*

Physical coercion against arrested or detained persons, under the condition of minimum necessary intervention, is permissible only when the person does not comply with the lawful order of an authorized person regarding the performance of their duties as defined by Article 14 of this law.

Paragraph 11 of the Annex to Government Decision No. 731-N of June 28, 2007, "On Approving the Internal Regulations of Detention Facilities Operating in the National Security Service System," as well as Paragraph 25 of the Annex to Government Decision No. 574-N of June 5, 2008, "On Approving the Internal Regulations of Detention Facilities Operating in the Police System of the Republic of Armenia," establish legal procedures for informing the detainee by the head of the TDF shift (shift senior) about their rights and obligations, requirements of the TDF internal regulations and liability for violating the established order, technical means available for monitoring them, and possible cases of using physical force, special means, and firearms, after the detainee's personal search, examination of belongings, medical examination, and sanitary processing.

However, these regulations do not define the types of necessary special means in TDFs, the procedure for their storage and use, as well as their supervision, staff training, and other circumstances.

The absence of legislative regulations regarding the types of special means in TDFs, their storage and use procedures, supervision, and mandatory conditions for periodic staff training is unacceptable and may lead to unnecessary and disproportionate use of physical force and special means, including means that pose a danger to human health. This, in turn, can lead to torture and other forms of ill-treatment, including inhuman treatment.

In recent years, in many member states of the Council of Europe, the police and some penitentiary bodies have been using various types of electric (spark) discharge weapons for official use to restrain violent persons deprived of liberty.

These weapons discharge electric current either at close range or from a certain distance: they are designed as no less lethal means than firearms, particularly in line with the principle of gradually increasing means used in dangerous situations.

- Issues related to this type of special means have been discussed in the 20th General Report on the CPT's activities. The CPT's position on the use of such weapons can be summarized as follows³⁷: Various types of electric (spark) discharge weapons can cause acute pain and be abused. The standards for their use should be provided by law and detailed in subordinate regulations.
- When using them, the principles of necessity, proportionality, prior warning (when possible), and caution should be observed.
- Officials to whom they are allocated must be adequately trained to be able to use them correctly.

³⁷ See on <https://rm.coe.int/1680696a87> as of 29.03.2024.

- If electric (spark) discharge weapons that can fire fragments are used, the applicable standards should be comparable to those for the use of firearms.
- Their use should be limited to situations where there is a real and imminent threat to life or risk of serious bodily injury, and when less coercive methods have already been applied and have not produced results or their application is practically impossible. They should under no circumstances be used solely to ensure compliance with an order.
- In confined spaces, such as cells, they can only be used in extremely exceptional circumstances.
- Electric (spark) discharge weapons should be equipped with appropriate devices, such as memory carriers that can record information, in particular the exact time of use, duration, and intensity of charge, and should have the ability to record video.
- Anyone against whom an electric (spark) discharge weapon has been used should in all cases be examined by a doctor, and if necessary, in a medical facility.
- After each use, a discussion should be organized, as well as a detailed report on the incident prepared.

In its 2014 report on the visit to Georgia, *the CPT emphasized that the use of electrical discharge devices (tasers) may be justified only in extremely rare cases when all other means have failed and there is a real and immediate threat to life. Moreover, only specially selected and trained correctional officers should be authorized to use these devices, and all necessary precautions should be taken when using them*³⁸.

It is concerning that in the presence of a Taser in the temporary detention facility (TDF), the TDF officers are not informed about the criteria for its use. Therefore, given the possible necessity of civilian weapon deployment cases, the need for appropriate training is crucial.

In paragraphs 53 and 55 of its 2nd General Report, the CPT described the main standards related to the use of force, which were later refined and improved in reports on visits to individual states³⁹.

According to CPT standards:

- Pre-planned interventions (including searches) should be video recorded,
- Bodily injuries sustained by persons deprived of liberty and correctional officers should be properly documented,
- Immediately after each intervention, all participating officers and all superiors should prepare a detailed report,
- All staff participating in an intervention should wear visible personal identification marks and badges, and adhere to the fundamental principles of legality, necessity, and proportionality,
- To avoid all this, it is necessary for security staff to receive proper training on verbal de-escalation, use of force, and reporting on these matters.

Therefore, taking into account the above, it is necessary to:

- ✓ ***Establish by law the types of special means in TDFs, conditions and grounds for their use, storage conditions, and other regulations related to their application;***

³⁸ See on <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806961f8> as of 29.03.2024; paragraph 111:

³⁹ See on <https://rm.coe.int/1680696a3f> as of 29.03.2024.

- ✓ *Develop detailed guidelines on the use of force, special means, and weapons;*
- ✓ *Provide technical means with sufficient storage capacity;*
- ✓ *Develop clear criteria for the use of tasers and electric shock devices, organizing proper training for TDF officers in this regard;*
- ✓ *Properly plan all measures that may involve the use of force, special means, or firearms, including planned searches;*
- ✓ *Ensure that officers participating in planned searches wear visible personal identification marks and badges and that the measures are properly video recorded;*
- ✓ *Thoroughly analyze each case of use of force, special means, or firearms by TDF management, regardless of whether criminal proceedings are initiated;*
- ✓ *After each use of force, special means, or weapons, all participating officers and superiors should prepare a comprehensive report on the legality, absolute necessity in the specific circumstances, and strict proportionality to the present danger;*
- ✓ *Properly document bodily injuries sustained by persons deprived of liberty and TDF officers;*
- ✓ *Organize proper training for TDF officers on verbal de-escalation, use of force, special means and firearms, and reporting on these matters.*

7.8. Working conditions of Temporary Detention Facility (TDF) officers

During monitoring visits, several issues related to the working conditions of TDF officers were recorded.

From the perspective of ensuring adequate working conditions for TDF police officers, the inadequate building conditions are problematic, as officers spend most of their day in such conditions and face numerous challenges.

For instance, in Meghri TDF, there was no designated office for the officer, and the TDF officer carried out their service in the duty room. In Yeghegnadzor TDF, the officer's office simultaneously served as a medical examination room, while in Vayk TDF, it served as a visitation room.

Unsatisfactory working conditions were also recorded in Hrazdan TDF. In particular, the police officer's office was in poor condition, with its floor and furniture (table, sofa, armchairs) being quite worn out.

The officers of Aparan TDF have to go up to the second floor of the administrative building of the Aparan Police Department every time they need to use the restroom, as there was no restroom available on the first floor.

During the visit, it was also noted that the officers of Nairi TDF, due to the absence of food outlets in Yeghvard city, are forced to travel to Yerevan or Abovyan cities during their break hours.

Therefore, it is necessary to provide proper working conditions for officers in TDFs and improve their system of social guarantees, including wages.

CHAPTER 8. THE LEGISLATIVE PROHIBITION OF TORTURE, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT AND ITS PRACTICAL IMPLEMENTATION

"No one shall be subjected to torture or inhuman or degrading treatment or punishment." This internationally recognized absolute prohibition of torture has been reflected in several key human rights documents, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the 1984 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and others.

The absolute prohibition of torture has also been enshrined in domestic legislation. *According to Article 26 of the RA Constitution, no one may be subjected to torture, inhuman or degrading treatment or punishment. Corporal punishments are prohibited, and persons deprived of liberty have the right to humane treatment.*

Article 450 of the RA Criminal Code establishes liability for torture. According to this article, torture is defined as the intentional infliction of severe physical pain or mental suffering on a person by an official or at their instigation, order, or their knowledge, for the purpose of obtaining information or a confession from that person or a third person, or punishing them for an act that person or a third person has committed or is suspected or accused of committing, as well as for the purpose of intimidating or coercing that person or a third person to commit or refrain from committing any act, or for any reason based on discrimination of any kind.

Article 450 of the Criminal Code of the Republic of Armenia is included in the chapter on crimes against public service, where most crimes are characterized by a special subject - the official. Part 20 of Article 3 of the Code provides the definition of an official, according to which officials are:

- a. Public servants, persons holding public office, persons authorized to act on behalf of the state, state administration system, local self-government bodies, non-profit organizations or institutions established by the state or community, or persons performing functions that create rights, obligations or responsibilities on their behalf;
- b. Persons holding permanent, temporary or special authority positions in the public authority, legislative, executive or judicial spheres of another state, or performing services or authorized to act on behalf of such structures, or persons performing functions that create rights, obligations or responsibilities;
- c. Persons holding permanent, temporary or special authority positions in international or supranational public organizations or structures, or performing services or authorized to act on behalf of such organizations or structures, or persons performing functions that create rights, obligations or responsibilities on their behalf;
- d. *Representatives of representative bodies of international or supranational international organizations or structures performing similar functions;*
- e. *Persons holding permanent, temporary or special authority positions in international courts, or performing services or authorized to act on behalf of the court, or persons performing functions that create rights, obligations or responsibilities on its behalf;*

f. *Jurors of another state or international court.*

Within the framework of the National Preventive Mechanism, the Human Rights Defender constantly studies both the legislative and practical situation regarding the absolute prohibition of torture in the country.

In this regard, it is noteworthy that at the beginning of 2023, criminal proceedings were initiated regarding the periodic and prolonged use of physical restraint measures not prescribed by law against a resident at the Vardenis Neuropsychological Boarding House. The actions were qualified under Articles 441 (abuse of power or official position or exceeding official powers by an official) and 195 (physical impact) of the Criminal Code of the Republic of Armenia (the case is currently in the trial phase)⁴⁰.

Within the framework of the National Preventive Mechanism, statistical data on reports received by competent authorities under Articles 441 and 450 of the Criminal Code and criminal cases initiated in connection with them are constantly studied. Thus, in 2023, 93 apparent cases of torture and other cruel, inhuman or degrading treatment or use of violence against persons deprived of liberty by penitentiary officers, police officers in temporary detention facilities, and officers of other places of deprivation of liberty within the meaning of the Constitutional Law on the Human Rights Defender were recorded.

During 2023, the Defender's Office received alerts and complaints about the ill-treatment of persons held in penitentiary institutions, in connection with which discussion procedures were initiated, and visits and individual receptions were conducted. Within this framework, letters were addressed to competent authorities, including for the purpose of initiating criminal proceedings.

According to the information received, criminal proceedings have been initiated by investigative bodies, which the Defender considers commendable.

The Defender emphasizes the need for the body conducting the proceedings to consider issues related to both the actions and inaction of representatives of the competent authority's administration within the framework of the investigation of these cases.

The Defender's Office has also received complaints and alerts about apparent cases of physical violence used in police departments and investigative bodies conducting proceedings to obtain information from a person or to compel a person to perform or refrain from performing an act. In connection with all the above-mentioned cases, the Human Rights Defender has initiated discussion procedures, visits and individual receptions were conducted, including subsequent visits to penitentiary institutions. Letters were addressed to competent authorities, including for the purpose of initiating criminal proceedings.

It should be noted that the CPT (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment) in its preliminary report on the visit to Armenia in 2023 also addressed cases of torture, inhuman and degrading treatment of persons deprived of liberty.

Thus, in Part B of the report, the Committee for the Prevention of Torture noted that during private conversations with the delegation, persons held in police departments mainly reported that police officers demonstrated proper treatment. However, in some cases, data was received on the use of physical violence against persons brought to police departments. The data mainly related to the

⁴⁰ See on https://datalex.am:443/?app=AppCaseSearch&case_id=47850746040814512.

disproportionate use of force by officers at the time of arrest (mainly punches and kicks) against persons who did not resist at all or no longer resisted after arrest. Other allegations concerned cases of physical violence by plainclothes police officers during preliminary interrogations in police departments (slaps, punches and kicks), and one case concerned the use of physical violence against a person by an escort battalion officer in a court cell.

Then, the delegation learned that in some cases, individuals had been subjected to ill-treatment by investigators from the Investigative Committee and the National Security Service's investigative department during interrogations, with the aim of extorting testimony or obtaining other information. The alleged ill-treatment mainly took the form of slaps, punches and kicks, but in one case an electroshock device was even used on the individual. Notably, in several cases, the delegation gathered documentary evidence supporting the allegations received.

According to information provided by the RA Investigative Committee, 86 criminal proceedings were initiated in connection with the above-mentioned cases during 2023.

Taking into account the above statistical data, the Defender emphasizes that the absolute prohibition of torture implies a positive obligation of the state to conduct an effective investigation into each case of torture and other forms of ill-treatment. According to Article 12 of the 1984 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, (...) the State shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Regarding effective investigation, the European Court of Human Rights has repeatedly emphasized in its positions that the state's positive obligation under Article 3 of the European Convention is to conduct an effective and thorough investigation⁴¹ of torture cases. The Court has stressed that the investigation of complaints of ill-treatment must be thorough and comprehensive. The competent authorities must take all possible steps to secure evidence relating to the incident⁴².

During 2023, as a result of examining complaints addressed to the Defender, issues were recorded regarding the proper and effective investigation of cases of alleged torture and ill-treatment of persons deprived of liberty.

Thus, as a result of examining a complaint addressed to the Defender regarding alleged ill-treatment, the Defender sent letters to the competent authorities, including for the purpose of discussing the initiation of criminal proceedings.

In response to the Defender's letter, information was received from the competent authority that criminal proceedings were not initiated based on the complaint submitted by the person to the Defender's staff, citing the absence of grounds for initiating proceedings. Moreover, the decision not to initiate criminal proceedings was also conditioned by the fact that the complainant refused to submit a report on the crime.

The Defender emphasizes that such an approach is at least inconsistent with the state's obligations to prevent torture and other cruel, inhuman or degrading treatment and to conduct effective investigations into such cases.

⁴¹ See *Assenov and Others v. Bulgaria*, judgment of 28 October 1998, application no. 28957/95, para. 117 and *Aksoy v. Turkey*, judgment of 18 December 1996, application no. 21987/93, para. 98.

⁴² See *Boicenco v. Moldova*, judgment of 11 July 2006, application no. 41088/05, para. 123.

In this regard, the European Court has noted that the formal submission of a report by a person is not decisive, since information about ill-treatment presented to the knowledge of the competent authorities ipso facto gives rise to the obligation to conduct an effective investigation under Article 3⁴³.

That is, even in the absence of any complaint, an investigation should be carried out when there are sufficiently clear indications of torture or ill-treatment⁴⁴.

In this context, the European Court has repeatedly reaffirmed its position that the competent authorities are obliged to initiate an investigation on their own initiative from the moment the relevant issue comes to their attention⁴⁵.

Summarizing the above, it can be stated that the state's obligation to conduct an effective investigation under Article 3 of the Convention arises both when a person submits a credible statement or disputable complaint, and when there are sufficiently clear indications of ill-treatment.

In another case, the body conducting the proceedings made a decision to terminate the criminal proceedings on the grounds of the absence of a crime under the RA Criminal Code. This was based, inter alia, on the fact that during the preliminary investigation, the alleged victims of the crime stated during interrogations that they had not had private conversations with representatives of the Defender's staff and did not provide any data on disproportionate use of physical force by police officers, as no such incident had occurred.

The Defender considers such practice concerning, taking into account the above-mentioned international standards and the fact that photographs of bodily injuries received by persons during the arrest were attached to the Defender's letter to the competent authorities, which were recorded during private conversations and directly contain signs of physical impact on the latter.

As a result of studying the case law of the European Court of Human Rights, the following fundamental criteria for effective investigation of torture and ill-treatment cases have been identified: independence and impartiality, comprehensiveness, promptness, victim involvement and public scrutiny.

The European Court noted in *Bouyid v. Belgium* that Article 3 of the Convention requires promptness in investigating cases of torture or ill-treatment, and it must be carried out within reasonable time limits. Although there may be difficulties that hinder the progress of an investigation in a particular situation, prompt investigation of allegations of torture or ill-treatment by state agents is important from the perspective of the rule of law⁴⁶. The Court found a procedural violation in a case where the investigating body identified witnesses or conducted their interrogations with unjustified delays in connection with cases of torture or ill-treatment⁴⁷.

The European Court has noted in its decisions that the investigation of cases of torture and ill-treatment must be thorough, which means that the state must always make serious efforts to find out what happened and should not make a decision to terminate criminal proceedings based on hasty or

⁴³ See *El-Masri v. The Former Yugoslav Republic of Macedonia*, judgment of 13 December 2012, application no. 39630/09, para. 182, *Georgiev v. The Former Yugoslav Republic of Macedonia*, judgment of 19 April 2012, application no. 26984/05, para. 64.

⁴⁴ See *Ozbey v. Turkey*, judgment of 8 March 2001, application no. 31883/96, para. 85 and *Members of the Gldani Congregation of Jehovah's Witnesses and Others v. Georgia*, judgment of 3 May 2007, application no. 71156/01, para. 97.

⁴⁵ See *McKerr v. The United Kingdom*, judgment of 4 May 2001, application no. 28883/95, para. 111.

⁴⁶ See *Bouyid v. Belgium*, judgment of 28 September 2015, application no. 23380/09, para. 121.

⁴⁷ See *Baranin and Vukčević v. Montenegro*, judgment of 11 June 2021, application no. 24655/18, para. 142, *Mătășaru and Savițchi v. Moldova*, judgment of 2 November 2010, application no. 38281/08, paras. 88 and 93.

unfounded conclusions. The state must take all reasonable steps available to obtain evidence about the incident, including, inter alia, witness testimonies and the results of forensic examinations⁴⁸.

It should be emphasized that in *M.F. v. Hungary*, the European Court found that the criminal investigation was not effective when the investigating authorities based the allegations of ill-treatment of a person by a police officer mainly on the statements of the alleged perpetrator and other police officers, as well as on the records of internal police document circulation⁴⁹.

In this context, it is extremely important to equip the entrances and exits of police administrative buildings, police administrative buildings, as well as places of detention with video and audio recording systems.

During monitoring visits to police detention facilities in 2023, it was recorded that the cameras installed in the corridors of detention facilities generally allow only real-time online video surveillance, while video or audio recording is not carried out.

Thus, it can be concluded that there are problems with the state fulfilling its positive obligation of the absolute prohibition of torture through effective investigation, which may lead to a violation of Article 3 of the European Convention.

The Defender also emphasizes the importance of regularly conducting necessary training on torture and other forms of ill-treatment for competent state bodies, which will allow for raising the level of awareness of state representatives about the field. This is an important guarantee both in terms of preventing torture and conducting effective investigations.

Discussing the absolute prohibition of torture, it is also necessary to address the issue of compensation for victims of torture. Article 14 of the 1984 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment stipulates that each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation. The interpretations of this article of the Convention emphasize that the term "redress" includes an official acknowledgement by the state that harm has been done to the person. According to the same interpretations, the civil procedure for compensation should be available regardless of the outcome of criminal proceedings.

According to the interpretations, although the definition in Article 14 of the Convention does not include inhuman or degrading treatment, the institution of fair and adequate compensation nevertheless applies to them as well⁵⁰.

Article 162.1, part 1, point 2 of the Civil Code of the Republic of Armenia stipulates that a person, or in case of their death or incapacity, their spouse, parent, adopter, child, adoptee, guardian, or trustee has the right to demand compensation for non-pecuniary damage through judicial procedure if the criminal prosecution body or the court has confirmed that as a result of a decision, action or inaction of a state or local self-government body or its official, the person's right not to be subjected to torture, inhuman or degrading treatment or punishment, guaranteed by the Constitution of the Republic of

⁴⁸ See *El-Masri v. The Former Yugoslav Republic of Macedonia*, judgment of 13 December 2012, application no. 39630/09, para. 182.

⁴⁹ See *M.F. v. Hungary*, judgment of 31 October 2017, application no. 45855/12, para. 55.

⁵⁰ See "Handbook on State Obligations under the UN Convention against Torture" available on https://www.apt.ch/content/files_res/A%20Handbook%20on%20State%20Obligations%20under%20the%20UN%20CAT.pdf as of 29.03.2024, pages 55-56.

Armenia and the Convention for the Protection of Human Rights and Fundamental Freedoms, has been violated.

The procedure and conditions for compensation of non-pecuniary damage caused by the violation of fundamental rights, including the right not to be subjected to inhuman or degrading treatment or punishment, are defined by Article 1087.2 of the Civil Code of the Republic of Armenia. According to part 2 of this article, non-pecuniary damage is subject to compensation regardless of the property damage subject to compensation. According to part 3 of the same article, non-pecuniary damage is subject to compensation regardless of the presence of fault of the official in causing the damage.

Part 9 of the mentioned article stipulates that *the claim for compensation of non-pecuniary damage can be submitted to the court both with the claim to confirm the violation of the right defined in part 2 of Article 162.1 of the Code from the moment the person becomes aware of the violation and within one year after the entry into force of the judicial act confirming the violation of that right or from the moment the person becomes aware of the investigator's or prosecutor's decision to refuse to initiate criminal proceedings on non-exonerating grounds, or not to conduct criminal prosecution, or to terminate criminal proceedings, or to discontinue criminal prosecution, which has not been cancelled or appealed.*

It turns out that the possibility of compensation is provided not only for torture but also for non-pecuniary damage resulting from inhuman or degrading treatment or punishment. Under domestic law, inhuman or degrading treatment or punishment, unlike torture, is not criminalized. In some cases, certain manifestations of it may contain elements of crimes against the person. The problem is more complex when the manifestation of inhuman treatment does not contain elements of any criminally punishable act, for example, not providing a person deprived of liberty with necessary medication for a prolonged period, citing its absence as a reason.

Persons deprived of liberty constantly address numerous similar complaints to the Human Rights Defender, and there are even decisions on the existence of violations of human rights or freedoms in connection with these. The fault of a specific official (head of the penitentiary institution, doctor) may be absent, but failure to provide necessary medication may lead to a violation of the state's positive obligation and inhuman treatment of the person deprived of liberty. This is also justified by the fact that in the case law of the European Court, unlike torture, the official's intent is not placed as a mandatory feature in the basis for assessing the treatment of a person as inhuman.

A question arises as to how the fact of inhuman or degrading treatment should be established. Based on the content of part 9 of Article 1087.2 of the Civil Code of the Republic of Armenia, a claim to confirm the fact of violation of the right not to be subjected to inhuman or degrading treatment or punishment can be submitted to the court along with the compensation claim. It turns out that the court considering the civil claim must, before addressing the issue of compensation, consider whether the person has been subjected to inhuman or degrading treatment. However, it is unclear how the court will establish the fact of a person being subjected to inhuman or degrading treatment or punishment in a situation where their concepts have not been enshrined in domestic legislation.

Thus, taking into account the high public danger of torture for a civilized society and the internationally defined absolute prohibition of torture, the state should take necessary, sufficient, and appropriate steps to adequately respond to cases of torture, hold perpetrators accountable as a result of effective investigation, as well as prevent torture in the country.