



HUMAN RIGHTS DEFENDER  
OF THE REPUBLIC OF ARMENIA



## AD HOC PUBLIC REPORT

ON ENSURING THE RIGHTS OF WOMEN  
AND JUVENILES  
DEPRIVED OF LIBERTY  
IN THE PENITENTIARY SYSTEM

YEREVAN 2019



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## INTRODUCTION

Decent conditions should be created for keeping and treating each person deprived of liberty. In any case, the predictable behavior and individual approach of the state towards each person deprived of liberty should be of fundamental significance for a person.

The RA Constitutional Law “On Human Rights Defender”, dated 16th of December, 2016, has reserved to the RA Human Rights Defender the status of the National Preventive Mechanism determined by the optional protocol, dated 18th of December, 2002, to the UN convention “Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”, dated 1984.

The Article 28 of the Constitutional Law determines liabilities of the Human Rights Defender and the possibility to visit penitentiary institutions periodically and as required within the mandate of the National Preventive Mechanism.

Ensuring of the rights of women and juveniles deprived of their liberty in the penitentiary system has a fundamental significance. The question is especially sensitive in the sense that it refers to people who need special treatment. In places of deprivation of liberty women and juveniles may become vulnerable conditioned, for example, by the fact of becoming victims in places of deprivation of liberty, by the danger of becoming a subject of sexual violence, by the absence of stable connection with family members and of special care and health products conditioned by gender and age, etc.

In this regard, it should be taken into account that women and juveniles, during the period of being deprived of their liberty, meet difficulties which make it necessary to keep their special needs in the center of attention (e.g. availability of special medical care, psychological assistance, sufficient detention conditions, education, occupation, etc.).

The state is obliged to take all possible measures to ensure physical and mental health and well-being of women and juveniles deprived of their liberty.

The problems, which exist in sphere of ensuring the rights of imprisoned women and juveniles of, require consistent efforts. The guaranty of achieving results is the principle of not damaging and being guided by professional approaches. Proper approach towards women and juveniles is especially important, based on their special role in the society and on the fundamental concept of provision of dignity.

Recording real results in this sphere requires comprehensive approach, which, of course, supposes attention to the status and working conditions of the penitentiary officers as well.

Therefore, the sphere requires systematic study, necessity to reveal existing problems and outline specific directions for solving them, what exactly the ad hoc public report aims to provide.

## METHODOLOGY

The present report is based on the main unannounced monitoring visit of the staff of the Department for Prevention of Torture and Ill-Treatment of the Human Rights Defender's Office, as well as independent experts (doctor, psychiatrist and sociologist) of the National Preventive Mechanism to "Abovyan" penitentiary institution of the RA Ministry of Justice on the 14th of May, 2018, on other visits prior to it, on results of discussion of the complaints from the penitentiary institution addressed to the Human Rights Defender.

The report has been drafted on the basis of all the individual complaints regarding the provision of rights of women and juveniles deprived of their liberty, the reported problems during the activity of the RA Human Rights Defender as the National Preventive Mechanism, as well as publications of mass media, international organizations and non-governmental organizations.

The documents (menus, maintained records or record books, medical and other related documents) on guaranteeing or ensuring the rights of women and juveniles deprived of their liberty have been carefully examined. Comparison and analysis of the received information have been carried out; gaps and shortcomings of legislative regulation have been revealed.

Prescribed detention conditions for women and juveniles deprived of their liberty, the state of provision of their rights and liberties have become a subject of detailed examination. Private interviews with the penitentiary officers and persons deprived of their liberty were held during the visits.

The problems revealed during the visit have been discussed with the authorized representatives and the head of "Abovyan" penitentiary institution, problems raised by the staff have been also recorded together with their needs.

The staff of "Abovyan" penitentiary institution cooperated willingly with the representatives of Human Rights Defender and provided them with the necessary assistance during the visit while they were exercising their powers.

In regard with the recorded problems, discussions were held at the Human Rights Defender's Office, based on which the present *ad hoc* public report not only reveals issues concerning the provision of rights of women and juveniles deprived of their liberty, but also provides legal and practical mechanisms for solving the recorded problems based on professional analysis, as well as suggestions of making additions and amendments in the legal acts of the sphere.

On the 14<sup>th</sup> of May, 2018, before the main monitoring visit paid to "Abovyan" penitentiary institution, a special training was organized. Particularly, on the 14<sup>th</sup> and 15<sup>th</sup> of April, within the framework of cooperation of the Office of the Human Rights Defender with the European Union and the Council of Europe, a training on the theme "Rules of Treatment Towards Women Deprived of Liberty" was held with the participation of international experts.

Representatives of the Human Rights Defender's Office and the Ministry of Justice, penitentiary officers, members of the Group of Public Monitors Implementing Supervision over the Criminal-Executive Institutions and Bodies of the Ministry of Justice of RA, advocates and journalists have taken part in the training.

Living conditions of pregnant and breastfeeding women, special needs of food and hygiene, issues on education and occupation of juvenile convicts, peculiarities of connection with the outsideworld and other questions were discussed during the event.

The purpose of the mentioned training was to increase the effectiveness of the planned, at that moment unannounced monitoring visit to the "Abovyan" penitentiary institution.

# CHAPTER 1.

## MEDICAL CARE, EXAMINATION AND PSYCHOLOGICAL WORKS FOR WOMEN AND JUVENILES

### 1. Medical service

Medical care is one of the most important elements of a decent treatment towards any person deprived of liberty. This is especially important in the sense that it is directly connected with the right of a person to healthcare. Failure in regard of this issue may result in ill-treatment towards the person deprived of liberty and even breach of the fundamental prohibition of torture in case of presence of necessary attributes. From the very first moment of deprivation of liberty, i.e. of forced isolation by the state against his/her own will, the state becomes responsible for ensuring the rights of person to healthcare and life. To solve this fundamental problem, not only a proper legislative system, but also human and technical resources are necessary. Accordingly, this report highlights the discussion of these issues.

Particularly, it has been recorded during the monitoring that a gynecologist, a surgeon and a dentist work at "Abovyan" penitentiary institution (on contractual basis). The nursing personnel includes 4 shift nurses and one day-shift nurse. The nursing personnel works by shifts, once every four days. One nurse serves two departments (isolator and women's sector).

The medical care department of the penitentiary institution works with overloaded schedule. During the night and evening hours the medical care lack accessibility, as one nurse on duty serves two departments.

At the moment of monitoring, 40-50 receptions/day and 25-30 receptions/day in average were registered in the records on rendering ambulatory medical care for the women's sector and isolator, correspondingly.



Medical staff does not include a general profile doctor, a therapist or a family doctor, and therefore the medical care of a therapeutic nature is rendered by a gynecologist of the Medical Care Department or, sometimes, by a surgeon.

In fact, the problem of providing therapeutic service at the penitentiary institution by a person with corresponding specialization is of primary importance.

The requirement of the involvement of a qualified doctor with general specialization in the Medical Care Department is specified in the "European Prison Rules" (hereinafter, European Prison Rules) adopted by the Recommendation No (2006) 2 of the Committee of Ministers of the Council of Europe. According to the mentioned rules, *each penitentiary institution should use services of at least one qualified general doctor*.

It should also be noted that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter - CPT) *pays special attention to the special medical needs of juveniles deprived of their liberty. It is especially important that the proposed health care service for juveniles constitutes a part of a multi-profile (medical-psychological-social) care program. It is implied herein, inter alia, that the cooperation of the institution's medical care staff (doctors, nurses, psychologists, etc.) and other specialists (including social workers and teachers) should be closely coordinated, those who are regularly dealing with persons deprived of their liberty. The goal should be to ensure that the medical care being provided to juveniles deprived of their liberty makes a part of care and therapy cohesive system. It is also desirable for the care program to be*

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<sup>1</sup> Available at the web-site [https://www.coe.int/documents/3983922/6970334/CMRec+\(2006\)+2+on+the+European+Prison+Rules.pdf/e0c900b9-92cd-4dbc-b23e-d662a94f3a96](https://www.coe.int/documents/3983922/6970334/CMRec+(2006)+2+on+the+European+Prison+Rules.pdf/e0c900b9-92cd-4dbc-b23e-d662a94f3a96), paragraph 41.1.

*available in written form to all the representatives of the administration who may take part in it.*

*CPT also noted that all juveniles deprived of their liberty should undergo a proper medical examination by a doctor within the shortest possible period at the time of being admitted to a penitentiary institution. Such medical examination, if properly performed, will allow the institution's healthcare service to identify the juveniles with a health problem (e.g. drug addiction, inclination for suicide). Identification of such issues at the earliest possible stage will promote the realization of effective preventive measures within the framework of the institution's medical-psycho-social care programs.*

For the purpose of rendering medical assistance sections are separated in all three premises of the penitentiary institution (sector for keeping detainees, sector of juveniles and women). A furnished medical room is separated in the isolator for providing the medical care for juveniles and women being kept there. According to the medical staff, rounds are made twice a day; the nurse approaches all cells of the isolator and, on request, renders medical assistance or provides with prescribed medicine.

During the visits, persons, deprived of their liberty and being kept in the isolator, indicated that they are basically communicating with the nurse: the latter visits them every day and takes an interest in their health condition, also rendering medical assistance, if required.

It is noteworthy that the rooms, located in the sector where juveniles are kept and which are assigned for rendering dental and gynecological services, have been replenished with medical equipment, accessories and tools. However, the problem of replenishing them with dental substances and remedies has not been completely solved yet. Dental medical

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<sup>2</sup> See CPT report about Malta, dated 2008, available at the web-site <https://rm.coe.int/1680697517>, paragraph 148.

<sup>3</sup> See the 9<sup>th</sup> general report on the CPT's activities, covering the period 1 January to 31 December 1998. Available at the web-site <https://rm.coe.int/1680696a73>, paragraph 39.

assistance and services are mainly provided with substances acquired at the dentist's expenses, including X-ray self-developing films.

Persons, deprived of liberty, insist that few people apply to the gynecologist, working at the penitentiary institution, for professional consultation. This is proved also by the records about the visits to the gynecologist made in the visit log: only two visits were recorded for the period from the 1st of January till the 14th of May (day of the visit), 2018.

During the monitoring visit the Defender's representatives recorded that at least two detainees, who have a need of constant medical control, are kept in the isolator of the penitentiary institution, who, based on the data provided by the latters, suffer from diabetes mellitus. The consultations of the endocrinologist for the aforementioned persons should be periodic and carried out according to the schedule of the dispensary control or on request.

For example, one of the persons deprived of liberty, as he/she insists, suffers from diabetes mellitus with decompensated process and complicated visual impairment, as well as from hypertension and obesity. He/she controls the glucose content in the blood with the glucose meter received from relatives, keeps with himself antidiabetic and antihypertensive medicine. Another person noted that he suffers from diabetes mellitus and diffusive toxic goitre, does not control the glucose content in the blood at his own and the penitentiary institution rarely provides such opportunity.

Persons, deprived of their liberty, also declared that the laboratory tests were organized in a chargeable manner at medical institutions of health care bodies.

During the monitoring it turned out that there are no necessary medical accessories at the penitentiary institution. For example, having patients suffering from diabetes mellitus, the penitentiary institution is short of corresponding strips (testers) for glucose meter, self-developing films for dental X-ray screening, pregnancy tests, etc.

Twice a year a fluorographic screening of persons deprived of their liberty is performed at the penitentiary institution, which is not compulsory and a person may deny it.

According to the recorded information, women and juveniles do not undergo screening tests for prevention of illnesses at admission to the penitentiary institution or during the period of being kept there.

In this regard, it is worth being noted that according to the sixth rule of the United Nations rules (hereinafter - Bangkok Rules) “On the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders” adopted by the UN General Assembly on the 21<sup>st</sup> of December, 2010, *while admission to the penitentiary institution the health screening of women prisoners shall include comprehensive screening to determine primary healthcare needs, and also shall determine:*

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

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

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

*(d) the availability of drug addiction ;*

*(e) the circumstance of subjection to sexual abuse and other forms of violence prior to admission<sup>4</sup>.*

According to the 18<sup>th</sup> rule of Bangkok Rules *preventive health-care measures of particular relevance to women, such as Papanicolaou tests and screening for breast and gynaecological cancer, shall be offered to*

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<sup>4</sup> Available at the web-site [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok\\_Rules\\_ENG\\_22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf).

women prisoners on an equal basis as in case with women of the same age at liberty.

Moreover, the 9<sup>th</sup> rule of Bangkok Rules defines the requirement of passing screening tests for the children of women deprived of their liberty as well.

In relation to the admission of juveniles to a place of deprivation of liberty, the CPT has emphasized that *it is necessary to ensure that all newly admitted juveniles, as well as juveniles escaped from prison or transferred to another place, should undergo medical examination after returning to the institution. Regular visits of the pediatrician should also be ensured.* The CPT also noted that *a personal medical document should be drafted for each child, which would contain diagnostic information as well as notes on its development and any specific examination. In case of transfer of a person to another institution, the mentioned document should be sent to the doctor of the recipient institutions.*

The institution does not have a pediatrician when “Abovyan” penitentiary institution is intended either for women or for juveniles.

On the first floor of the women's sector two medical stationary ward rooms with 5 beds and three rooms for medical care (for doctor's reception, medical intervention and a recreation room for medical staff) are separated. Requirements, stipulated by the law for such medical institutions, are not met at the stationary department of medical care. The sector of the medical care is not provided with water and bathroom, and the patients, undergoing medical treatment there, have to use the bathroom of the second floor.

Persons, being kept in isolator, do not use the medical care stationary department intended in the women's sector and are transferred to other

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<sup>5</sup> See CPT report about Bulgaria, dated 2002, available at the web-site <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680694040>, paragraph 189.

health care institutions for stationary treatment only when it is strictly necessary. Their medical treatment is mainly organized in cells.

As the medical staff assures, small children are registered in the Mayakovsky village outpatient clinic for medical care. In the outpatient clinic the pediatrician opens a medical card for the child and the medical care for up to three-year-old children is organized there, or, if required, children are transferred to medical institutions in Abovyan.

Small children are transferred to other health care institutions without the mother because the convicted woman (mother) must get permission from the Penitentiary Department in order to move to a health care institution with the child, which requires a long time. This practice is subject to a principal change.

The issue of providing medical assistance to persons deprived of their liberty at medical care institutions of the health care bodies is also problematic, especially within the framework of free medical care and services ensured by the state. The point is that it usually takes more than a month till the penitentiary institution applies to the Penitentiary Department on the indicated purpose and the latter applies to the Ministry of Health. In case a person wishes to undergo a medical examination or treatment with his/her preferable doctor and at his/her own expenses, it is organized with delays as well (may require up to three months), or may even be failed.

At the time of the visit, as a result of narrow professional consultation laboratory-instrumental examinations were assigned to a group of persons deprived of their liberty, but their organization was delayed because many of them did not have the opportunity to undergo the examinations at their own expenses.

According to the CPT standards, *whenever prisoners need to be hospitalised or examined by a specialist in a hospital, they should be*

*transported with the promptness and in the manner required by their state of health.*<sup>6</sup>

Despite this requirement, no stationary service is intended for women deprived of their liberty at the "Prisoners' Hospital" Penitentiary institution. Women are transported to this institution for a short period of time only for undergoing some laboratory-instrumental examinations (for example, blood common and biochemical, ultrasound and x-ray examinations).

Persons deprived of their liberty declared that the penitentiary institution does not provide and even does not have the necessary remedies. The mentioned persons have to buy the necessary remedies themselves at their own expenses or through relatives.

The remedies acquired by the person deprived of his/her liberty through relatives are registered in the corresponding journal but it is done without any medical prescription on the specific type of medicine. Thus, during the visit, the Defender's representatives recorded a case when, amongst other medicine, the person deprived of liberty received "Tetracycline" from his relatives, but there was no any medical prescription for the use of such medicine.

It turned out from the study of the logbook for registering remedies that the penitentiary institution are short of hypotensive medicine. At the moment of the main monitoring visit on the 14th of May, even the most frequently used medicine had already finished ("Ambroxol"-from the 14th of February, "Aspirin"-from the 19th of March, "Nosh-Arpi"-from the 23rd of March, "Malox"-from the 29th of April, "Mezim-Forte"-from the 1st of January, "Actrapid"-from the 7th of February) in the case when most of them were prescribed for treating persons deprived of their liberty. For example, "Actrapid" was prescribed for people suffering from diabetes mellitus for daily administration, but it was not available

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<sup>6</sup> See the 3<sup>rd</sup> general report on the CPT's activities, covering the period 1 January to 31 December 1992. Available at the web-site <https://rm.coe.int/1680696a40>, paragraph 37.

for several months at the penitentiary institution. During the monitoring, it was registered that the room of the isolator intended for medical care and service was equipped with a medical couch, a safe for keeping medicine, a working table, chairs, a table for medical tools, a scales (not functioning at the time of the visit), height measuring instrument and a box for medical waste.

The medical waste accumulated in the penitentiary institution is thrown out together with common waste, ignoring the provisions stipulated by law.

Thus, according to the paragraph 21 of the annex 1 (hereinafter, Annex) approved by the order N 03-N of the Decree of the RA Minister of Health on Approval of Sanitary Rules and Norms N 2.1.3-3 “On Hygienic and Anti-Epidemic Requirements for Medical Waste Disposal” , pointed waste, at their *place of origin, immediately after being used are placed in disposable solid capacities*”(e.g., plastic bottles, metal or solid plastic container) bearing the sign of biological hazard and the label *Caution, sharps. It is forbidden to double close the needles of syringes with the cover and/or asepticize them before placing.*

According to the paragraph 25 of the Annex, *all types of medical waste are hermetically closed after they have been put in containers, and the pathological-anatomical, microbiological, pointed and chemical wastes are also sealed after which the employee, who is responsible for collecting, placing, closing and transporting the medical waste, fills in a label, indicating on it the type of the placed medical waste, the exact time, date, month, year of its placing in the container, his name and surname, as well as the name of the organization. The filled in label is fixed on the container, which is immediately transported to the special location for contemporary storage of medical waste. The possibility of separating the filled in label from the container is excluded.*



The mentioned procedure was partly followed only in the room intended for dental assistance, but the label “Caution, sharps” on polyethylene bottle was still missing.

The room intended for medical services, located in the building of the isolator, needs to be repaired. The remedies, brought by the relatives of the persons deprived of their liberty, are kept in separate packages in remedies safe.

An open (uncovered) outlet socket was detected in the above-mentioned room, and a makeshift lock was being used instead of the lock of the safe intended for remedies. The box intended for medicine packages was in anti-hygienic condition, in particular, there were rusty scissors, "Dermazine" cream without a cover, and an illegible pills plate without shelf life.

The remedies safe in the room intended for Medical Care Department of the isolator contained medicine with expired shelf life, 5 ampules of "Atropine sulfate", and medical accessories, plaster bandage. At the same time, the remedies safe in the room intended for Medical Care Department of the women's sector contained medicine with expired shelf life, "Corglyconum", and venous catheters.

Different patients deprived of their liberty or sometimes small children with the need of various meal plans are kept at the penitentiary institution. They are not provided with meals based on special or dietetic meal plan, only additional food is provided.

The proportions of food being provided to persons deprived of their liberty at the penitentiary institutions are defined by the resolution N 1182-N of the RA government, dated 15th of October, 2015<sup>7</sup>, which underwent certain changes on the 18th of May, 2017. The subparagraph

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<sup>7</sup> Resolution N 1182-N “On definition of the minimum food proportions, garments proportions and terms of their exploitation, linen and hygiene items proportions and terms of their exploitation of the persons kept at penitentiary institutions of the RA Ministry of Justice and on recognition as invalid of the resolution N 413-N of the RA government, dated 10<sup>th</sup> of April, 2003” adopted by the government of the Republic of Armenia on the 15<sup>th</sup> of October, 2015.

4 of the paragraph 1 of the above-mentioned resolution on special meal plan defines that, *based on the doctor's conclusion or consultation, pregnant, nursing mothers and/or ill prisoners and convicts, being kept at the penitentiary institutions of the RA Ministry of Justice, should be provided with corresponding dishes made of food types prescribed in the Annex 1 of the same resolution.*

At the same time, the general ban on acceptance of raw food at the penitentiary institution, including vegetables, stands as an obstacle for providing the children and ill persons deprived of their liberty with the necessary meal plan.

***Hence, based on the above-mentioned, it is necessary to:***

***• replenish the medical staff of "Abovyan" penitentiary institution within the possible shortest terms (including at least one specialist with a qualification of therapist or family doctor), taking into account the line-up of the institution and the requirements of medical care and service;***

***• provide the proper availability of gynecological, pediatric, dental, psychiatric, endocrinological and other narrow professional services;***

***• provide completely the proper possibility of getting medical care and assistance in stationery conditions for women being kept in isolators;***

***• provide the persons, deprived of their liberty, with the legal possibility to use services of other medical specialists at their own expenses and on their own choice;***

***• organize the medical care and service for the persons, deprived of their liberty, at medical institutions of health care bodies in time and without delays;***

***• provide legislative and executive mechanisms for the mother deprived of her liberty to accompany her child to medical institutions of health care bodies in case of organization of an up to three-years-old child's care at the penitentiary institution;***

**• organize the laboratory-instrumental examinations properly and in time within the framework of free of charge medical care and service guaranteed by the state;**

**• develop a scheme of screening examination for women deprived of their liberty in order to detect sexually transmitted infections, to prevent tumour of cervix of the uterus, breast and other diseases;**

**• provide the penitentiary institution with necessary remedies and medical accessories, such as the tester of glucometer, dental materials, X-ray self-developing films, etc.;**

**• improve the process of providing on request the persons deprived of their liberty with remedies through enlarging the list of necessary remedies of the penitentiary service, increasing their quantity and investing alternative mechanisms for acquiring medicine;**

**• invest certain mechanisms of accepting remedies, acquired at the expenses of persons deprived of their liberty or at their relatives' expenses, to penitentiary institution being guided by corresponding instructions and the principle of not damaging;**

**• ensure strict compliance with the hygienic requirements of keeping the remedies;**

**• exclude the availability of remedies with expired shelf life at the penitentiary institution and define the mechanism of their destruction, following the procedures regarding the destruction of remedies with expired shelf life stipulated by law;**

**• ensure the compliance with the hygienic and anti-epidemic requirements stipulated by law regarding the collection and transportation of medical waste;**

**• fulfill repairing works in the rooms intended for medical care in the isolator and women's sector;**

**• equip the Medical Care Department of the women's sector with running water and bathroom;**

**• provide a special dietetic meal plan for the ill persons deprived of their liberty, for juveniles and small children, reviewing for such cases also the general ban on acceptance of raw food to the penitentiary institution, including vegetables.**

## **2. Preliminary medical examination**

Persons, deprived of their liberty and having already entered the penitentiary institution, undergo the preliminary (external) medical examination in the separated room at the check-point. The territory of the room is about two square meters, it does not have a window. It was recorded during the monitoring that the room is equipped only with one table.

The clarifications of the penitentiary officers testify that the preliminary medical examination, together with search and seizure, is carried out in the presence of female penitentiary officers as well as in the presence of the medical specialist of the penitentiary institution, the female supervisor for the day of the institution and the female officer of the police accompanying battalion.

**The described is unacceptable in principle. The medical examination should be realized only by a doctor, out of the limits of the audibility and visibility of the staff of the place of deprivation of liberty.**

The international rules are definite in this regard: *the medical examination of the people deprived of their liberty (at the time of arrival or later) should be realized at the place of deprivation of liberty out of the limits of the audibility, and, if the corresponding doctor does not mind, out of the limits of the visibility of the staff. The medical*

*examination of the person deprived of his/her liberty should be realized not by groups, but on individual principle.*<sup>8</sup>

The medical examination is realized only once, when a person is admitted to the penitentiary institution. In other cases, when a person is transferred to the court or to the preliminary investigation body and returns to the penitentiary institution, the external medical examination is not realized.

The CPT, in the report about Armenia dated 2016, touched also the topic of the medical examination being realized at places of deprivation of liberty as a measure of prevention of torture. In particular, the CPT, reapproving the recommendations placed in the reports of previous years, noted that, *while admitting to the place of deprivation of liberty, the primary medical examination of the person, especially recording and reporting of received injuries, are not realized properly. The CPT considers as problematic the fact that the examination is being organized in the framework of the procedure of the person's admission to the place of deprivation of liberty, in the presence of the accompanying policeman and the administration staff of the penitentiary institution, violating the principle of the medical privacy.*

According to the sub-paragraph “e” of the paragraph 10 of the final views about the 4<sup>th</sup> regular report on the Republic of Armenia adopted by the UN committee against torture, *the state, based on the international standards, should take effective measures to provide all persons deprived of their liberty with the possibility to take the practical advantage of all fundamental and legal guarantees directed to the prevention of tortures from the very beginning of deprivation of liberty.*

*One of such rights is the right of undergoing medical examination by an independent doctor, which should be realized out of the limits of the audibility, and, if the corresponding doctor does not mind, out of the*

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<sup>8</sup> See the 2<sup>nd</sup> general report on the CPT's activities, covering the period 1 January to 31 December 1991 at the web-site <https://rm.coe.int/1680696a3f> , paragraph 51.

*limits of the visibility of the police staff. The state should guarantee in practice the independence of the doctors and other medical staff relating with persons deprived of their liberty, should ensure that every sign and doubt of torture and ill-treatment is reported and documented by them properly.*

According to the paragraph 37 of the resolution N 825-N “About the organization of medical sanitary and preventive assistance to detainees and convicts, possibilities to get advantage of medical institutions of health care bodies and confirmation of the order of involving their medical staff for that purpose” adopted by the RA government on the 26th of May, 2006, *all the medical examinations should be performed out of the limits of the visibility and audibility of penitentiary or other officers.*

***Taking into consideration the above-mentioned, it is necessary to:***

- ensure proper conditions for preliminary medical examination of the persons deprived of their liberty;***
- organize the external medical examination of the persons deprived of their liberty out of the limits of the visibility and audibility of the penitentiary institution staff, as well as of the accompanying policeman, unless the corresponding doctor does not insist on the contrary, adhering to the principle of medical privacy;***
- organize the external medical examination of the persons deprived of their liberty at every entrance or exit from the penitentiary institution.***

### **3. Psychological works**

At the time of visit, in the Social, Psychological and Legal Operations Department 6 specialists are involved (7 employees are envisaged in the staff-list) to work with 116 people kept at the “Abovyan” penitentiary

institution. During the main monitoring visit, the only psychologist of the penitentiary institution was on maternity leave.

The employees of the social-psychological service of the penitentiary institution use their own human qualities and abilities in everyday work. This, of course, is positive itself, but no detail about using corresponding methods and professional approaches was received during the visit.

In fact, there are problems or risks at the penitentiary institution, such as domestic disputes arising among women deprived of their liberty, allocation of persons with the registration of social-psychological peculiarities, settlement of relations and communication among women deprived of their liberty, which are a subject of narrow professional approaches and settlement.

Inspections testify that, in general, the issue of social-psychological works carried out with the persons, deprived of their liberty at penitentiary institutions, is problematic. In particular, the social-psychological works, carried out with the persons deprived of their liberty, are necessary to be improved, connected with adaptation at the institution, effective prevention of conflicts inside the institution, transformation of the convicts' values and behavioral approaches, preparation of reintegration to the society, etc.

**The system of social-psychological services at “Abovyan” penitentiary institution should undergo a principal improvement, especially in regard with the following issues:**

- **settlement of relations among persons deprived of their liberty, prevention and settlement of possible conflicts;**
- **settlement of relations between a penitentiary officer and a person deprived of liberty, prevention of risks of physical and psychological violence;**
- **adaptation of persons deprived of their liberty to the regulations and staff of the institution, as well as readaptation to the external social environment;**

- **social-psychological recovery of persons deprived of their liberty;**

- **preservation of connection and relationship between persons deprived of their liberty and external social environment (relatives, external information, labor market opportunities etc.).**

Besides, private interviews with the persons deprived of their liberty revealed that there is a necessity of trainings for the employees of the social-psychological service, connected with the main legal questions the convicts are interested in, especially about conditional early release, grounds for pardoning etc.

From the point of view of settling the interpersonal conflicts among women deprived of their liberty and raising the questions of their concern, the practice of assigning reception days (every Friday) with the head of the institution is welcome. In regard with this issue, a certain positive atmosphere is noticeable among persons deprived of their liberty.

***For the realization of the above-mentioned, it is necessary to:***

- ***improve fundamentally the social guarantees and working conditions, including salary, of employees of social-psychological sphere of the penitentiary institution;***

- ***realize the replenishment of social-psychological staff of the penitentiary institution taking into account professional knowledge and abilities;***

- ***organize trainings for Supervisors and Security officers, having direct relations with persons deprived of their liberty, as well as for social-psychological service staff, in directions of youth psychology, female psychology, management of stress and social works with women and young people, and in other directions of the relevant sphere.***



## CHAPTER 2

### DETENTION CONDITIONS OF WOMEN AND JUVENILES AND TREATMENT TOWARDS THEM

#### 1. Detention conditions

##### *1.1 Isolation facility*

Female detainees, convicts allocated in the closed penal institution as well as juvenile detainees and convicts are detained in the isolation facility of the “Abovyan” penitentiary institution.

The monitoring revealed improper building and unacceptable sanitary conditions in the isolation facility of the penitentiary institution. As a result of examination of the corridors, as well as Cells N 9, 11, 17,18, 19, 20, including the sanitary conveniences (toilet facilities), carried out by representatives of the Human Rights Defender staff, it has been found out that humidity degree was high, plaster peeled off the walls and ceilings of the corridors and cells, with parts of the walls and ceilings damaged and mouldy in some places. Basically similar conditions were revealed in the stores room and in the rooms provided for gymnastics. High humidity was also recorded in the premises for the persons deprived of their liberty keeping in the open prison. The ceilings of the aforementioned cells need renovating as well.

Each of the examined cells had an area of 13 to 15 sq. meters and was furnished for four persons deprived of their liberty. The monitoring revealed at least three persons deprived of their liberty in each cell. However, private interviews with the convicts revealed that up to four convicts at a time were kept in each cell, which causes overcrowding.

The representatives of the Human Rights Defender staff also revealed poor bedding in the penitentiary. The day after the problem was discussed with the prison governor, verbal information was received on that the poor bedding was replaced with new one.

## 1.2 Women's sector

The Abovyan penitentiary runs two-storeyed building (women's sector) specially designed for female convicts. It is a hostel-like building, with a bathroom, laundry, medical room and refrigerators on the first floor. The building has a kitchen for convicts to heat up the parceled food.

The second floor of the building comprises two large lodgings, with one of them designed for 59 convicts (49 persons were actually housed during the visit), and the other for 19 convicts (14 persons were actually housed during the visit), with one more small curtained-off lodging designed for four convicts (3 persons were actually housed during the visit).

The number of convicts in the aforementioned two lodgings is quite high, with no personal space for the women; the women-convicts cannot retire (stay alone). The situation is inadmissible as no minimal conditions for women's private life are available.

Moreover, the area of the lodgings is grossly disproportionate to the number of inmates.

In fact, in its 2016 report on Armenia, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) noted that *"continued efforts should be made to further decrease occupancy levels in the cells of penitentiary institutions, so as to ensure minimum of 4 sq.m of living space per person deprived of the liberty."*<sup>9</sup>

According to Article 20 of the RA Law "On treatment of arrestees and detainees" and Article 73 of the RA Penitentiary Code, *the living space allocated to arrestees, detainees and convicts cannot be less than 4 sq.m per person.*

In this regard, the CPT has recommended *to move away from large-capacity accommodation formats, in favour of smaller living units.*

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<sup>9</sup> See at the website [https://rm.coe.int/16806bf46f\\_paragraphs\\_63\\_65](https://rm.coe.int/16806bf46f_paragraphs_63_65).

*Women are no exception: smaller living units allow for an approach, which is better tailored to their particular needs.*<sup>10</sup>

Moreover, according to Points 1 of Article 104 and Article 105 of the RA Penitentiary Code, *in semi-open and semi-closed penitentiaries convicts shall be kept in accommodations designed for up to six people.*

**One more problem in the women's sector is that the first lodging of the sector is separated from the duty officers' room with a glass partition.** The monitoring revealed that at the check point three of the five duty officers were males. As to the two other lodgings located on the same floor, the duty officers open the door time and again, while the first lodging is under 24-hour supervision, which restricts the female inmates' right to private life. The problem is also grave due to the fact, that at the check point penitentiary male officers are on duty as well. The glass partition is double-sided transparent, and constant supervision of the female inmates by male duty officers is mutually obvious.

Having no personal space, the female inmates have to change their clothes, go to bed and get up in the presence of duty officers (including male officers), which is a cause of constant stress for them, with constant risk of male officers interfering in female inmates' personal space. This situation is in principle unacceptable.

In this respect, Paragraph 3 of Rule 81 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (hereinafter, the Nelson Mandela Rules), adopted on 17 December 2015, reads, in particular, that *“women prisoners shall be attended and supervised only by women staff of the penitentiary administration.”*

CPT raised the problem as well. During visits to Serbia and Montenegro the CPT recorded the fact that penitentiary male officers carried out video surveillance of women's cells of the penitentiary institution, which proved a restriction of the female inmates' right to private life. The CPT noted that *“if it is considered that, at certain period*

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<sup>10</sup> See at the website <https://rm.coe.int/168077ff14>, p.2.

*of time and for certain reasons, CCTV systems should exist in a prison environment, elementary principles of decency should be followed by the administration staff of the penitentiary institution; for example, in the cells monitoring of women deprived of liberty should be performed by female staff of the penitentiary institution.”<sup>11</sup>*

The bathroom on the second floor of the building needs renovation, hot water supply is not available there.

***Considering the above, it is necessary to:***

- ***gradually modify the lodgings of the women’s sector of the penitentiary institution in strict conformity with the relevant international and national requirements;***

- ***rule out the supervision of female inmates by male duty officers through a glass partition;***

- ***take consistent steps to provide the prison inmates with personal space, viewing the problem in the context of a need for both a minimum of 4 sq.m of living space per prisoner and personal space that would be in conformity with the principle of respect for human dignity;***

- ***establish control over sanitary and hygienic regulations, with attention to proper renovation (to reduce humidity), condition of the bathrooms, quality of works on disinfection and disinfestation.***

### ***1.3 Disciplinary cell and quarantine***

The isolation facility of the Abovyan penitentiary institution has only one disciplinary cell. No person kept in the punishment cell was found during the visit. The disciplinary cell, including its bathroom and toilet, needs renovation. The Human Rights Defender’s staff members recorded high humidity in the cell along with low natural lighting.

The monitoring revealed the problem related to involvement of the

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<sup>11</sup> See CPT report about Serbia and Montenegro, dated 2004, available at the web-site <https://rm.coe.int/1680697c8f>, paragraph 264.

local medical staff in transferring the person to the disciplinary cell.

Specifically, in the decision on taking the person to the disciplinary cell, as a disciplinary action, the practice of making notes by a doctor regarding state of health of a person deprived of the liberty is still available. For example, the decision on taking one of the person deprived of the liberty to the disciplinary cell contained the doctor's note on "Satisfactory state of health" of the person, while it is performed before the person is transferred to the disciplinary cell. Actually, it turns out that a person is taken to the disciplinary cell after the doctor gives his approval or consent.

This practice is against international law. Specifically, in accordance with the CPT standards *medical personnel should never participate in the process of making decisions on disciplinary penalties resulting in any type of solitary confinement, except where the measure is applied for medical reasons.*<sup>12</sup>

This practice is also problematic in that it is in conflict with the concept of generating confidence of the person deprived the liberty in doctors. So, this practice is in conflict with the fundamental concept of doctor-patient relationship between the prison inmates and doctor or health worker.

The examination revealed that the penitentiary institution has two quarantine cells. They are next to the disciplinary cell, conditions of which hardly differ from those in the disciplinary cell and need a renovation. Staff representatives of the penitentiary institution insist on that only one of the quarantine cells is actually used.

***Considering the above, it is necessary to:***

• ***ensure that the penitentiary has a disciplinary cell and quarantine cells with all the necessary conditions for a person's everyday life, taking into consideration especially the importance of***

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<sup>12</sup> See the 24th General Report of the CPT, which covers period from 1 August, 2010 to 31 July, 2011, at the website <https://rm.coe.int/1680696a88>, paragraph 62.

***adaptation to the confinement conditions for persons with no previous convictions;***

- ***rule out the practice of making the decision on imposing the disciplinary penalty to transfer the person to the disciplinary cell based on opinion of any representative of medical personnel of the penitentiary institution on the state of health of this person.***

## **2. Kitchen and food provision**

The kitchen and canteen of the penitentiary institution are located in a separate building, which needs renovation. The monitoring revealed that the chemical cleaning agent (chlorine powder) for cleaning the kitchen was kept in the kitchen cabinet, in a reuseable food container, with no mark about its contents. No information on sanitation with the use of the aforementioned or other substances, the schedule of sanitation, rules on safety ensurance while their use was found in the kitchen. No special gloves or other safety items used for cleaning were found either.

The canteen is small, with the tables closely fitted. Vegetables peeling is also carried out in the canteen due to lack of necessary space and conditions in the kitchen. The monitoring revealed that the potato used for preparing the dinner was stored in cabinets at the backside of the canteen.

It was also found out that signatures of 15 people deprived of their liberty were available in the list of arrestees and/or convicts who, the day before the visit, refused from the menu of the following day, while, according to the monitoring by the Human Rights Defender's representatives, most of the food cooked was disposed of at the end of dinner.

The problem is that inmates who refuse from the menu do not use the bread offered at the penitentiary either. In this case, they do not put their signatures in the register to get the bread. As a result, the inmates

take only the bread, without eating the meals cooked for them, which is later disposed of.

The study of the menu for May 14 to 20, 2018 revealed that minimum daily rations of food are not in compliance with the rations stipulated by Resolution No 1182-N of the RA Government, dated October 15, 2015, “On defining the minimum daily food rations, clothing rations and use terms, bedding and hygiene facilities rations and use terms for persons held in the penitentiary institutions of the Ministry of Justice of the Republic of Armenia and on invalidating the Resolution No 413-N of the RA Government dated April 10, 2003. For example, during the abovementioned period of time it was envisaged to provide each person deprived of liberty with only 20 grams of dairy products. However, the aforementioned resolution defines the rations of 100 grams for milk and other dairy products and 14.3 grams in case of milk powder. Besides, no juice, fruit juice or fruits in general were envisaged in the menu.

As a result of study of the documents on providing with foodstuff it was found out that in the penitentiary institution no eggs were in the menu throughout March 2018; in April eggs were provided for 5 days, and in May 2018 only for 3 days. However, according to Annex 1 to Resolution No 1182-N of the RA Government, dated October 15, 2015, each person deprived of liberty is to be provided with one egg for six days per month.

The kitchen staff pointed out the problem that no greens or seasoning was envisaged in the Resolution No 1182-N of the RA Government dated October 15, 2015. They insisted on that it affects the taste of food.

In the isolation facility of the Abovyan penitentiary institution almost all the persons deprived of liberty expressed their discontent with the quality of food (undercooked, unappetizing rice, hand-made round pieces of cheese, etc), monotonous diet (e.g., frequent provision of boiled cabbage, pasta, etc), regular lack of certain food products (e.g., eggs), rare provision or absence of food products containing fruit,

vitamins and other food components.

After dinner, a lot of food cooked remained in the canteen.

The convicts mainly eat the food products or ready-to-eat food brought by their relatives in parcels. However, since the ready-to-eat food cannot be kept for a long period, and the relatives are unable to frequently visit the penitentiary institution to bring parcels, the female convicts complained about the ban on parcels with raw food.

Besides, during the visit to check-point no sufficient equipment was available there to check the parcels. Mobile metal detector and adapted household articles and other things (knives, spoons, scissors, sharp pointed metal rods etc.), were mostly used, which, as the women deprived the liberty insisted on, caused spoilage of the parceled food (e.g., pastry, dolma, etc.)

At the area adjacent to the the parcel reception room of the penitentiary institution check-point designed for relatives to deliver the parcels to the persons deprived of liberty, a wooden box was installed, presumably for appeals. However, no information on the purpose of the box or on control procedures was available on the box or next to it.

On its own initiative, the Abovyan penitentiary institution developed a form for registration of dry food provided to convicts and detainees in case of their transportation, with a column for a signature of the persons deprived of liberty to confirm the receiving of food. In the context of the frequently raised problems regarding food provision for persons deprived of liberty during their transportation to the court or other place, this initiative is commendable.

On the other hand, it should be noted that the penitentiary institution has no dietitian.

Food storage warehouses were examined; they need renovation.

No freezer was available in the food storage warehouse. As a result, the frozen chicken, butter, cheese and vegetables (cabbage, onions) were kept on different shelves of the same refrigerator, without



observing the necessary food temperature conditions.

It is noteworthy that, according to the paragraph 20.1 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (SMRs) adopted by the First UN Congress on the Prevention of Crime and the Treatment of Offenders on 30 August 1955, *“Every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.”*

According to Rule 22.3 of the European Prison Rules, *“Food shall be prepared and served hygienically.”*

***Considering the above, it is necessary to:***

- ***carry out necessary renovation in the kitchen of the penitentiary institution;***
- ***ensure the necessary conditions for processing, preparation, preservation and separate storing of food in the kitchen;***
- ***ensure proper sanitary and hygienic conditions and safety rules on the use of cleaning agents in the kitchen of the penitentiary institutions;***
- ***along with the food quality standards, ensure the quantity standards of food, the persons deprived of liberty are provided with, ensuring the food variety and rations defined by the legal act regulating the sphere;***
- ***discuss the issue of removing the ban from receiving certain types of parceled raw food;***
- ***equip the parcel checking room at the check-point with proper equipment, excluding the food spoilage;***
- ***carry out necessary renovation in the food storage warehouses;***
- ***ensure proper food preservation conditions.***

### 3. Shower and hygiene provision

The isolation facility of the Abovyan penitentiary institution has two bathrooms, one on each floor. Private interviews revealed that the bathing is arranged once a week, and, in certain cases, with cold water. The persons deprived of liberty expressed their discontent in this respect.

At the moment of monitoring, the bathrooms were in unacceptable hygienic and sanitary conditions, with the plaster peeled off and the tiles damaged in some places. Renovation and cleaning are required.

Moreover, there was no opportunity for the persons deprived of the liberty to hang their clothings in the bathrooms. A rack with 3 to 7 pegs each was fixed on the wall of each bathroom. There was no opportunity to sit; a worn and ramshackle chair was available in one of bathrooms.

According to the explanations by the staff of the penitentiary institution, the persons deprived of liberty, while taking a bath bring also chairs with themselves.

The monitoring revealed that the bathroom on the first floor of the women's block of the penitentiary institution was small, equipped with three showers. The bathroom needs renovation.

The cloakroom of the bathroom lacked the necessary conveniences. At the same time, drying machine was installed there, while the only washing machine was in a special small room adjacent to the bathroom. The washing machine is used for washing the bedding, while the female prisoners wash their own clothes by hand on the days envisaged for taking a bath (four days a week, according to schedule).

In this respect, according to Rule 19.4 of the European Prison Rules, *“Adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene,”* and according to Rule 19.7, *“Special provision shall*

*be made for the sanitary needs of women.”<sup>13</sup>*

Taking a bath and the personal hygiene are highly important for prisoners in general, and for women’s physical and mental health and well-being. Taking into consideration the specific features of maintaining the women’s hygiene, ensuring proper conditions for personal hygiene and taking a bath, adequate conveniences and opportunity to take a bath more frequently, is highly important.

Almost all the inmates in the isolation facility (Cells 9, 11, 17, 18, 20) of the penitentiary institution noted about insufficient quantity of hygiene items, which makes them acquire all the necessary items through their relatives.

The persons deprived of liberty particularly noted that one bar of soap per month is not enough for their personal hygiene needs, especially given the fact they use the same bar of soap while taking a bath. One bar of laundry soap is not enough either.

The private interview with prisoners revealed also that one tube of toothpaste for three persons per month is not enough. Tooth brushes are not provided at all. The hygiene items provided for a month are insufficient as well.

The examination of stores and relevant documents revealed that the Abovyan penitentiary was not supplied with tooth brushes throughout 2017. In addition to that, the employees of the penitentiary institution noted that the detainees were formerly provided with tooth brushes once a year (it is advisable that a tooth brush is to be used for 2-3 months). Two tubes of toothpaste (100 mg) are supplied per month to four persons deprived of liberty.

According to Decision N 1182-N of the RA Government dated October 15, 2015, one person deprived of liberty is to be supplied with 50mg of toothpaste per month. However, since the penitentiary institution is

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<sup>13</sup> See at the web-site: <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae>.

supplied with 100mg toothpaste tubes, two persons are provided with one toothpaste tube per month.

The CPT considers it of particular importance to ensure full access of women deprived of liberty to sanitary and washing, providing them with necessary hygiene items (sanitary towels and tampons) in equivalent quantity. The failure to provide such basic necessities could be considered as degrading treatment.”<sup>14</sup>

***Considering the above, it is necessary to:***

- ***renovate the bathrooms to ensure proper conditions for persons deprived of liberty to take a bath;***
- ***arrange washing properly;***
- ***taking into account the hygiene needs of women deprived of liberty, propose an amendment to Decision No1543-N by the RA Government of August 3, 2006, which would allow taking a bath at least twice a week for the women deprived of liberty;***
- ***make amendments to Decision No1182-N by the RA Government of October 15, 2015, “On ensuring the minimum daily rations of food and clothing and setting its lifetime, bedding and hygiene items and their lifetime for persons in the penitentiary institutions of the RA Ministry of Justice and on invalidating Decision No 413-N by the RA Government of April 10, 2003.”***

#### **4. Water supply**

Some of the cells in the isolation facility of the Abovyan penitentiary institution (for example, Cells 18 and 20) have a water supply problem. In particular, water supply is often cut off or water flow drops, especially, in the morning hours. Under the circumstances, the inmates expressed their concern over personal hygiene issues as no opportunity

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<sup>14</sup> See the 10th General Report of the CPT, covering the period 1 January to 31 December, 1999 at the website <https://rm.coe.int/1680696a88>, paragraph 31.

is available to wash use the lavatory in the mornings.

During the visit, the Human Rights Defender's staff noted satisfactory water supply in the cells.

The staff of the penitentiary institution insists on that the cause of the low water pressure in the morning hours may be heavy water consumption in the morning, and the capacity of the main water pump does not probably manage to satisfy the increasing water consumption.

***Therefore, measures must be taken to ensure proper water supply for the Abovyan penitentiary institution.***

## **5. Contact with the outside world and the exercise**

The monitoring revealed an unsatisfactory state of the two visiting rooms, including the furnishing. The lavatories are also in an unacceptable condition. One of the rooms for extended visits had a refrigerator (one of the penitentiary employees tried to repair the refrigerator during the visit), and an inoperating TV set was in the other visiting room. No other technical appliances were available in the rooms for long visits. According to penitentiary staff, bedding and dishes are not provided during extended visits. The visiting relatives, including the minors, have no opportunity to go outside for a walk due to lack of separate yard. Separate children's room is not also available.

The two other rooms designed for longer visits are used for investigative actions and meetings with lawyers. The monitoring revealed an unacceptable sanitary condition of the bathroom and lavatory of one of the rooms.

A study of the relevant records revealed that the convicts of the penitentiary institution, including the minors, do not often have extended visits with their relatives. So, the registration book of "Detainees and convicts called to the room for extended visits" contains only 22 relevant entries for 2018.

The persons deprived of liberty mostly use short visits for which only one room is envisaged. The room is furnished with four tables and chairs, which were not in a satisfactory state during the visit.

The same room can be used for several short visits at a time, but no necessary conditions for persons to be withdrawn are ensured.

As regards the contact of women deprived of liberty with the outside world, it should be noted that, according to Rule 26 of the Bangkok Rules, *“Women prisoners’ contact with their families, including their children, and their children’s guardians and legal representatives shall be encouraged and facilitated by all reasonable means. Where possible, measures shall be taken to counterbalance disadvantages faced by women detained in institutions located far from their homes.”*

Rule 28 defines, that *“Visits involving children shall take place in an environment that is conducive to a positive visiting experience, including with regard to staff attitudes.”*

Losing contacts with their families, especially with their children, may be a cause of great concern and suffering for women deprived of liberty and have grave consequences for their mental health. The fact of having only one penitentiary institution for women, in turn, prevents the persons deprived of liberty from more frequent seeing their relatives residing in Armenia’s remote regions. Under the circumstances, assisting the women deprived of liberty in maintaining contacts with the outside world by ensuring proper conditions for visits is of extreme importance. To ensure free contacts of persons with their families, in 2017 the Human Rights Defender's office drew up and introduced draft amendments aimed at resolving the problems recorded in regards to contacts with the outside world. Specifically, the draft amendments propose ruling out any restrictions on the detainees’ right to meeting with their families or other relatives on the part of the body carrying out the proceedings, setting out more stringent requirements for restricting the right to visits, such as justification and a requirement for regular

reviews.

It was difficult to make calls to the hotline number 116 of the Human Rights Defender's office from the payphones installed in the women's sector because of the relevant instructions being unclear or unavailable at all. The fact was checked just during the monitoring. The problem was discussed with the staff of the penitentiary institution, expressing their willingness to fasten relevant instruction next to the payphones as soon as possible.

The women deprived of liberty complained of high prices for cardphone communication provided.

As a result of study it was revealed that as of the time of monitoring the payphone in the isolation facility of the Aboyan penitentiary institution was operating, the relevant instruction on calling to the hotline number of the Human Rights Defender's office was fastened, however, it was impossible to make a toll-free call to the hotline number.

***Considering the above, it is necessary to:***

- ***ensure toll-free and unimpeded calls to the hotline number 116 of the Human Rights Defender's office and availability of the relevant instruction;***
- ***ensure proper furnishing and sanitary conditions of the rooms designed for extended visits, as well as to provide them with the necessary items;***
- ***ensure proper furnishing of the room for short visits, as well as conditions for privacy during several simultaneous visits;***
- ***ensure the right to open-air walks during extended visits, envisaging special exercise yards for this purpose;***
- ***ensure separate children's room in case of extended visits.***

The Aboyan penitentiary has four exercise yards provided for persons deprived of liberty detained in the isolation facility. There are benches, litterbins and protective covering to be protected in case of bad weather.

Despite appropriate covers available, the monitoring revealed that

some benches in the exercise yards were wet all over because of rain. No gymnastics equipment was available in the exercise yards.

During private interviews with persons deprived of liberty it was found out that they were informed of their right to 1-hour stay in the exercise yard. They also noted that usually they were allowed to stay in the yards for up to 40 minutes.

According to explanation of the staff, the persons deprived of liberty often refuse to go for a walk, probably due to bad weather.

The right to rest, including open-air walk, is guaranteed both by domestic and international documents.

The European Prison Rules also reported the importance of providing the persons deprived of liberty with opportunity to do gymnastics. According to Rules 27.3 and 27.4, *“Properly organised activities to promote physical fitness and provide for adequate exercise and recreational opportunities shall form an integral part of prison regimes. Prison authorities shall facilitate such activities by providing appropriate installations and equipment.”*

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

Part 2 of the same Rule reads, *“Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end, space, installations and equipment should be provided.”*

Domestic national laws clearly define this right as well. According to Paragraph 10 of Part 1 of Article 12 of the RA Code of Criminal Procedure, *a convict has the right to (...) rest, including open-air exercise and eight-hour night sleep.*

Article 13 of the RA Law “On treatment of arrestees and detainees” contains an identical provision.

According to paragraph 87 of the Addendum to Decision No 1543-N



by the RA Government of August 3, 2006, *the exercise yards for juvenile delinquents or convicts in the places of confinement or in penitentiaries shall be equipped with facilities for sporting activities and various games.*

The 2nd paragraph of Article 27 of the RA Law “On treatment of arrestees and detainees” reads, *“The arrested or detained women and juveniles shall have the right to daily walks of no less than two hours, during which they shall be given an opportunity to do some physical exercise.”*

Part 4 of Article 56 of the RA Code of Criminal Procedure reads, in particular, *“(...) juvenile convicts shall have the right to daily walks of no less than two hours.”* As it has been already mentioned, the arrested or detained juveniles also have the right to daily walks for at least two hours.

Of note is also the problem of differentiating between the length of exercise for female arrestees or detainees on the one hand and female convicts on the other hand. Specifically, female arrestees or detainees have the right to 2-hour daily exercise, whereas female convicts do not have this right. The fact was referred to in the 2017 report by the RA Human Rights Defender as the National Preventive Mechanism.

***Considering the above, it is necessary to:***

- ***create adequate conditions for open-air exercise in the exercise yards of the Abovyan penitentiary institution, including the necessary shelters in case of unfavorable weather conditions;***
- ***install necessary facilities for physical exercises, games, and sporting activities in the exercise yards of the penitentiary institution;***
- ***ensure a unified legal approach to the length of exercise for women deprived of liberty, which will afford them an opportunity, irrespective of their status of being detained or convicted, to enjoy the right to daily exercise for at least two hours.***

## 6. Employment

Almost all the inmates detained in the isolation facility referred to employment as a special problem. In its turn, it causes mental stress, heightened tension, overirritation or anger, stress or disappointment.

According to the persons deprived of liberty, lack of contacts with their families causes constant thoughts, worries and depression, and unemployment is a cause of behavioral and emotional disorders and outbreaks, which can directly affect their discipline.

Unemployment can also lead to interpersonal frictions.

Some persons deprived of liberty detained in the isolation facility are engaged in reading. The reading matter is provided by their relatives: they do not visit the library of the penitentiary institution due to lack of new books interesting for them. Sometimes they are engaged in embroidery.

Generally, watching TV is the only occupation for persons deprived of liberty detained in the isolation facility of the penitentiary institution.

The penitentiary institution has a gym equipped with three exercise bikes and an electric treadmill, which was not operating during the monitoring visit. The penitentiary institution has no regulatory procedure on using the gym.

Private interviews revealed that a few persons deprived of liberty visit the gym.

The measures or training courses ensuring the occupation of persons deprived of liberty in the Abovyan penitentiary institution are on a nonregular and short-term basis.

Convicted women work in the kitchen of the penitentiary institution. At the premises of the institution the convicted women are also involved in the cleaning and sanitation (bathrooms and lavatories, garbage disposal).

The main occupation of the convicted persons is watching TV, reading and yard improvement. There is a library on the second floor of the women's sector and a convicted woman works as a librarian there. A

tennis table is installed at the ceremonial hall on the first floor.

Pottery, painting and other groups are operated in the penitentiary institution.

According to information of the staff of the penitentiary institution the “Centre for the implementation of legal education and rehabilitation programmes” SNCO conducts the following training courses: the “Healthy lifestyle”, “Social education and life skills”, “Applied decorative arts”. For convicted juveniles the Center implements also the training course “General literacy/Armenian language, literature and mathematics”.

However, during the private interviews the persons deprived of liberty did not mention about their participation in the courses.

One of main matters of concern for the convicted persons is their occupation, employment, and long-term prospects when released from prison. Pottery and literary groups are operated in the penitentiary institution at the initiative of on one of convicted persons. The groups may prove to be the means of work therapy. On the other hand, pottery skills are not valuable in terms of solving the employment problem of the convicted persons when released from prison.

A lighter workshop is operated in the penitentiary institution, which should be considered positive. However, it is a small workshop, and the convicted person is paid 1.5 drams for one lighter produced. Many convicted persons are willing to learn and work, including acquiring and applying knowledges in the field of foreign languages and computer skills. Therefore, such training opportunities should be developed in the penitentiary institution.

To ensure effective social reintegration after being released from the prison it is required to organize such training courses in the penitentiary institution which would facilitate certain foreseen employment opportunities (for example, hairdressing, design of clothing, computer skills, etc) for the convicted women in the labor market.

***Therefore, the employment level should be raised by involving the persons deprived of liberty in different purpose-oriented occupations (work, education, sports, etc).***

## **7. Discriminatory treatment**

During private interviews with the Human Rights Defender's representatives the women deprived of liberty detained in the isolation facility of the Abovan penitentiary institution mentioned that instances of discriminatory treatment were available in the penitentiary institution. Specifically, some persons deprived of liberty are allowed to keep and use an electric hairdryer, an iron and an electric oven in the cell, whereas the other inmates are not allowed due to argumentation that the appliances are prohibited.

As a result of the check performed by the representatives of the Human Rights Defender's office, it was recorded that the abovementioned appliances were available in some cells, whereas they were not available in the other ones.

In this respect, Rule 1 of the Bangkok Rules reads, in particular, *“In order for the principle of non-discrimination embodied in rule 6 of the Standard Minimum Rules for the Treatment of Prisoners to be put into practice, account shall be taken of the distinctive needs of women prisoners”*.

***Considering the above, any display of discriminatory treatment of persons deprived of liberty needs to be ruled out.***

## **8. Specific requirements to detention conditions and treatment of juveniles deprived of liberty**

A special aspect of the Human Rights Defender's activities is the protection of rights of juveniles in places of deprivation of liberty or their

detention. Here, the works of the Human Rights Defender's office are performed by a special methodology, involving independent experts of the field and based on the international standards.

During the monitoring visit to the Abovyan penitentiary institution, one 17-year-old juvenile was recorded in a status of detainee, detained in the institution.

During private interview the juvenile deprived of liberty informed that he/she had been confined for about 2 years and four months, and the case was being tried, with no court verdict returned so far. The latter was detained alone as no other juvenile deprived of liberty had been detained in the Abovyan penitentiary institution since January 2018.

Based on specific requirements to treatment and detention conditions of juveniles, first of all, their right to education should be touched upon. Specifically, in the case mentioned above, during the private interview with the Human Rights Defender's representatives the juvenile told that he/she had left the ninth-form of the school, without attending the high school, while his further education was impossible at the place of deprivation of liberty. Moreover, discussions held at the penitentiary institution revealed that no measures had been taken yet to ensure secondary education for juveniles deprived of liberty in the penitentiary institution.

According to Article 38 of the RA Constitution, *“Everyone shall have the right to education.”*

In accordance with the paragraph 4 of Article 4 of the RA Law “On General Education”, *“secondary education is obligatory:”* Paragraph 14 of Part 1 of Article 12 of the RA Code of Criminal Procedure reads, *“the convicted person shall have the right to education possible and stipulated by the law.* Article 13 of the RA Law “On treatment of arrestees and detainees” provides a provision with identical content as well.

The CPT's 2nd General Report reads, that *“A satisfactory programme of activities (work, education, sport, etc.) is of crucial importance for the well-being of prisoners. This holds true for all establishments, whether*

*for sentenced prisoners or those awaiting trial”<sup>15</sup>.*

*It is noteworthy that, according to the CPT, “In the view of the CPT, all juveniles deprived of their liberty because they are accused or convicted of criminal offences ought to be held in detention centres specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with the young. Moreover, the care of juveniles in custody requires special efforts to reduce the risks of long-term social maladjustment. This calls for a multidisciplinary approach, drawing upon the skills of a range of professionals (including teachers, trainers and psychologists), in order to respond to the individual needs of juveniles within a secure educative and socio-therapeutic environment.”<sup>16</sup>*

The European Prison Rules also set out requirements on providing the persons deprived of liberty with sufficient useful work, on giving an opportunity for amusement (sports, games, cultural events and other leisure pursuits), on making educational programs available.<sup>17</sup>

*According to the European Prison Rules, “Every prison shall seek to provide all prisoners with access to educational programmes which are as comprehensive as possible and which meet their individual needs while taking into account their aspirations. Particular attention shall be paid to the education of young prisoners and those with special needs.”<sup>18</sup>*

The CPT emphasized that *“juveniles have a particular need for physical activity and intellectual stimulation. Regardless of their period of deprivation of liberty, they should be offered a full programme of education, sport, vocational training, recreation and other purposeful activities. Physical education should constitute an important part of that*

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<sup>15</sup> See at the website <https://rm.coe.int/1680696a3f>, paragraph 47.

<sup>16</sup> See the 9th General Report on the CPT's activities covering the period 1 January to 31 December 1998 at the website <https://rm.coe.int/1680696a73>, paragraph 28.

<sup>17</sup> See at the website <https://rm.coe.int/16806f5b92>, Rules 26.1-26.3, 26.6, 26.9, 26.10, 27.3, 27.6, 28.1-28.5, etc.

<sup>18</sup> See at the website <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae>, Rules 28.1 and 28.3.

*programme.*"<sup>19</sup>

The number of juvenile detainees or convicts detained in the Abovyan penitentiary institution is generally low. By comparison, for example, three juveniles were detained in the Abovyan penitentiary institution as of October 2016, whereas five juveniles as of December 2017,<sup>20</sup> and only one juvenile was detained at the penitentiary during the monitoring visit. Under the circumstances, due to the absence of other juveniles deprived of liberty and application of the rule on separate detention of juveniles from adults, the only juvenile is detained alone, with no possibility to contact others.

According to the Nelson Mandela Rules, *"For the purpose of these rules, solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days."*<sup>21</sup>

It should also be noted that no handing over the meals to a juvenile nor surveillance of the cell by penitentiary officer can be considered sufficient human interaction. Along with this, the talks with the employees of social-psychological service of the penitentiary institution, the exercise, nonregular and unsystematic training courses (painting, pottery) cannot ensure sufficient human interaction, if secondary education and purpose-oriented education and sports programmes are not available.

According to the CPT, *"Although a lack of purposeful activities is detrimental for any prisoner, it is especially harmful for juveniles, who have a particular need for physical activity and intellectual stimulation.*

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<sup>19</sup> See the 2010 Report about Albania at the website <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680667783>, paragraph 66.

<sup>20</sup> See the Annual report on the 2017 activities of RA Human Rights Defender as National Preventive Mechanism, p. 85.

<sup>21</sup> See at [https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E\\_ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf), Rule 44.

*Juvenile inmates should be provided throughout the day with a full programme of education, sport, vocational training, recreation and other purposeful out-of-cell activities”<sup>22</sup>*

In this regard, to protect the right of juvenile detainee to education, the Human Rights Defender's office has proposed a procedure for discussion on one's own initiative. Within the mandate of the Human Rights Defender necessary measures are undertaken to clarify education-related issues to facilitate the ensuring of realization of the right to education.

As it has already been mentioned, the juvenile detained in the Abovyan penitentiary institution under the particular case recorded, is in preliminary detention for 2 years and four months.

Being guided by legal status assigned to the Human Rights Defender exclusively and without interfering in the judicial proceedings under particular case, nevertheless, we think it proper, by this instance, to refer to the international standards that reject the practice of long-term detention of juveniles and encourage alternatives to deprivation of liberty, especially for juveniles.

Thus, Article 37 of the UN Convention on the Rights of the Child adopted in 1989 reads, in particular, *“The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time”*.<sup>23</sup> The United Nations Standard Minimum Rules for Non-custodial Measures (hereinafter, the Tokyo Rules) of December 14, 1990, encourages alternative measures of restraint, especially for juveniles.

Long-term detention of juveniles, especially under the conditions of isolation and lack of sufficient human interaction, could violate the prohibition of torture and inhuman or degrading treatment, stipulated by Paragraph 1 of Article 26 of the RA Constitution.

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<sup>22</sup> See the 24th General Report of the CPT, covering the period 1 August 2013 to 31 December 2014 at the website <https://rm.coe.int/1680696a9c>, paragraph 107.

<sup>23</sup> See at the website <https://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>.



The monitoring conducted at the Abovyan penitentiary institution revealed that the cell, where the juvenile was detained as of the moment of visit, had an area of 13 sq.m and was furnished with two two-tier beds. In some parts of the cell, including the bathroom, the plaster was peeled off; the wooden floor was worn out. As a result of discussion with the penitentiary officers it was found out that no separate cells were intended for juveniles deprived of liberty and their allocation was situational and depended on the availability of unoccupied cells.

***Therefore, it is unacceptable that juveniles deprived of their liberty are not only kept in the women’s isolation facility of the Abovyan penitentiary institution, but no special cells are envisaged for juveniles appropriate for the age and specific needs of the latters.***

According to the European Prison Rules, “*Children under the age of 18 years should not be detained in a prison for adults, but in an establishment specially designed for the purpose.*”<sup>24</sup>

According to Paragraph 85 of the Addendum to Decision No 1543-N by the RA Government of August 3, 2006, “On approval of internal regulation of places of detention of the detainees and correctional facilities of the Penitentiary Service of the Ministry of Justice of RA”, *one-tier beds shall be installed in the cells designed for juvenile detainees or convicts.*

***Therefore, it is necessary to:***

- ***take immediate steps to introduce measures of restraint and punishment only as a measure of last resort, especially towards the juveniles in relation with deprivation of liberty in the RA legal system;***
- ***ensure proper realization of the right of juveniles deprived of their liberty to education (including secondary education);***
- ***organize regular, systematic and purpose-oriented training***

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<sup>24</sup> See at the website <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae>, Rule 11.1.

*courses and events for juveniles deprived of liberty (educational, cultural, sports and other);*

- *ensure necessary human interaction for the isolated juveniles deprived of their liberty in the absence of other juveniles deprived of liberty in the penitentiary institution;*

- *ensure separate cells envisaged for juveniles deprived of their liberty, providing with proper detention conditions.*

## CHAPTER 3 PENITENTIARY STAFF AND WORKING CONDITIONS

### 1. Penitentiary staff

Human rights protection is a comprehensive process, which implies guarantee of rights for all the participants of the process, ensuring the decent treatment towards each of them and approval of relations establishing mutual respect. One of the components of this fundamental approach is the state of rights of employees, officers of the competent bodies, which are meant by their activities to ensure the protection of rights of the society members.

It certainly refers to penitentiary officers as well, their decent working conditions and social guarantees, including their salary. Without proper ensuring such guarantees in practice, high results of rights protection can hardly be expected. Therefore, these issues within the framework of this report have become a subject for special discussion.

To forming a complete idea of the problem, first of all, it is required to refer to ratio of penitentiary officer-person deprived of liberty. Specifically, the study of the staff list of the Abovyan penitentiary institution revealed that 16 officers were involved in the group on duty having immediate contact with the women deprived of liberty, and 51 officers were involved in the work of Security Department. The departments are operated on a four shift basis. In the daytime, 20-21 penitentiary officers in total are involved in the works of the divisions mentioned, and 12-13 officers work at nighttime.

Based on the fact that during the main monitoring visit 166 persons deprived of liberty were recorded in the Abovyan penitentiary institution, the ratio of penitentiary officer-person deprived of liberty becomes problematic. The study of international practice also indicates that.

So, according to the European Prison Rules, *“Good order in prison shall be maintained by taking into account the requirements of security,*

*safety and discipline”*<sup>25</sup>

Appropriate number of staff, having relevant qualification and properly retrained, is an important guarantee of security, safety and discipline.<sup>26</sup> In its reports the CPT repeatedly emphasized that *“Ill-treatment can take numerous forms, many of which may not be deliberate but rather the result of organisational failings or inadequate resources.”*<sup>27</sup>

In his reports the Commissioner of Council of Europe for Human Rights also referred to the ratio of a person deprived of liberty-penitentiary officer existing in the penitentiary institutions of European countries, which comes all together to *1 penitentiary officer against 4 persons deprived of liberty.*<sup>28</sup>

**Thus, according to the European human rights standards, the ratio of 1 penitentiary officer against 4 persons deprived of liberty is considered acceptable.**

**At the same time, availability of appropriate staff, having relevant qualification and properly retrained, is important. Staff shortage in the penitentiary institution could lead to improper exercise of powers by the penitentiary officers and an insecure environment.**

Moreover, a problematic issue is the gender-specific ratio of the penitentiary officers having an immediate contact with the women deprived of liberty in the Abovyan penitentiary.

According to the documents provided by the penitentiary staff, only

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<sup>25</sup> See at the website <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae>, Rule 49.

<sup>26</sup> See the 2nd General Report of the CPT, covering the period 1 January to 31 December 1991 at the website <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae>, paragraph 59 and the 11th General Report of the CPT, covering the period 1 January to 31 December 2000 at the website <https://rm.coe.int/1680696a75>, paragraph 26.

<sup>27</sup> See the 2nd General Report of the CPT, covering the period 1 January to 31 December 1991 at the website <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae>, paragraph 44.

<sup>28</sup> See Follow-up report on Romania (2002-2005) of the CE Commissioner for Human Rights at the website <https://rm.coe.int/16806db7b0>, paragraph 14.

two of the 16 employees of the group on duty are female officers, while in the Security Department only 19 of 51 security officers are female.

**Such ratio of the penitentiary officers having an immediate contact with women deprived of liberty in the penitentiary institution envisaged for women is unacceptable.**

*Therefore, it is necessary to:*

- *ensure appropriate number of staff for the Abovyan penitentiary institution;*
- *ensure a sufficient ratio of female penitentiary officers having immediate contacts with women deprived of liberty in the penitentiary institution.*

## **2. Working conditions of the penitentiary officers**

The monitoring revealed unsatisfactory working conditions for the officers at the check point of the women's sector. Specifically, due to absence of food stores or fast food stands in the neighbourhood of the penitentiary institution, the officers bring dry food from home, having no opportunity to warm it up. It could be one more cause of strained relations between the officers and persons deprived of liberty.

At the same time, the check point is not provided with separate washroom and lavatory for the officers. That is why the female officers of the penitentiary institution use the washroom and lavatory on the second floor, designed for the convicted persons, and the male officers use the lavatory, located on the first floor of the women's sector, entrance to which is through the cloakroom of the bathroom, provided for women deprived of liberty.

At the isolation facility of the Abovyan penitentiary institution the representative of the Human Rights Defender's office recorded unsatisfactory conditions in the rooms of administrative employees. The rooms need renovation.

During the visit, a number of employees noted that they are provided with uniform once per two years, which is not enough. As a result of it they have to buy one-two more uniforms for that period.

During the visit, one of the four shift nurses was on vacation, another one was on sick leave. The two other nurses worked every other day, however, they were not paid for overtime work.

According to Article 184 of the RA Labor Code, *“For each hour of overtime work, in addition to the hourly rate, an additional payment shall be made, not less than 50 percent of the hourly rate, and for each hour of night work, not less than 30 percent of the hourly rate.”*

According to Part 3 of Article 139 of the RA Labor Code, *“The maximum duration of working time, including overtime work, may not exceed 12 hours a day (including the break for rest and meal), and 48 hours — during the week.”*

Part 4 of Article 139 of the RA Labor Code reads, *“The duration of the working time for specific categories of workers may amount to 24 hours a day. The average duration of the working time of such workers in a week may not exceed 48 hours, and the rest time between the working days may not be less than 24 hours. The list of such jobs shall be defined by the Government of the Republic of Armenia.”*

In the penitentiary system the issues on sufficient and adequate salary of the penitentiary officers, as well as developing the flexible mechanisms of incentives need a revision and system changes, too. These solutions will have an immediate positive effect in terms of state of ensuring the human rights of the persons deprived of liberty in the penitentiary institutions, prevention of inhuman treatment and corruption risks.

***Therefore, it is necessary to:***

- ***improve fundamentally the system of social guarantees, including salary, for penitentiary officers;***
- ***ensure satisfactory working conditions for the officers of the Abovyan penitentiary institution, including proper conditions in workrooms, for having meals, satisfactory hygienic and sanitary***

***conditions in bathrooms and lavatories, excluding the entrance of male officers into the cloakroom of women's bathroom;***

- ***organize additional duty shifts in conformity with the relevant provisions of the RA Labor Code.***