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Report

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

from 4 to 10 April 2013

The Armenian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2015) 9.

Strasbourg, 27 January 2015

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Copy of the letter transmitting the CPT's report

Ms Narine Solomonyan
Acting Head of the International Legal Relations Department
Ministry of Justice
41/a Halabyan street
Yerevan 0079, Armenia

Strasbourg, 18 November 2013

Dear Ms Solomonyan,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Armenian Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Armenia from 4 to 10 April 2013. The report was adopted by the CPT at its 82nd meeting, held from 4 to 8 November 2013.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Armenian authorities to provide, within **one month**, a response giving a full account of action taken to implement the recommendations in paragraph 72 and, within **three months**, a response giving a full account of action taken to implement the other recommendations in the report.

The CPT trusts that it will also be possible for the Armenian authorities to provide, in the response due within one month, a reply to the request for information made in paragraph 72 and, in the response due within three months, reactions to the comments formulated in this report as well as replies to the other requests for information.

The CPT would ask, in the event of the response being forwarded in Armenian, that it be accompanied by an English or French translation.

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

Yours sincerely,

Lətif Hüseynov
President of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Armenia from 4 to 10 April 2013[1].

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

- Jean Pierre RESTELLINI, Head of Delegation
- Ajdin JEVTIĆ
- Julia KOZMA
- Ana RACU
- Xavier RONSIN.

They were supported by Michael NEURAUTER, Head of Division in the Committee's Secretariat, and assisted by the following interpreters:

- Khatchatur ADUMYAN
- Aram BAYANDURYAN
- Anahit BOBIKYAN
- Gevork GEVORKYAN
- Anahit MESROPIAN.

[1] The CPT has previously carried out three periodic visits (in 2002, 2006 and 2010) and three ad hoc visits (in 2004, 2008 and 2011) to Armenia. The reports on these visits and the responses of the Armenian authorities are available on the CPT's website: http://www.cpt.coe.int/en/states/arm.htm

B. Context of the visit and establishments visited

3. The visit was one which appeared to the Committee "to be required in the circumstances" (see Article 7, paragraph 1, of the Convention). The main objective was to review the implementation of recommendations made after previous visits regarding the treatment of persons deprived of their liberty by the police, following the emergence of various reports (including from the Human Rights Defender) which referred to persistent problems in this area. For this purpose, the delegation interviewed numerous detained persons who had recently been or were still in police custody. It also examined relevant documentation, including registers of traumatic lesions and investigation files concerning complaints about police ill-treatment, and held consultations with prosecutors and officers of the Special Investigation Service (SIS) (see Sections 3 and 4).

In addition, the delegation reviewed the conditions under which life-sentenced prisoners were being held at Yerevan-Kentron Prison, in the light of the specific recommendations made after the previous visits to the establishment in 2010 and 2011.

4. The delegation visited the following establishments:

Police establishments

Kotayk-Abovyan Police Division

Detention Centre of Yerevan City Police Department

Yerevan-Arabkir Police Division

Yerevan-Kentron Police Division

Yerevan-Malatia Police Division

Yerevan-Marash Police Division

Yerevan-Mashtots Police Division

Prison establishments

Abovyan Prison (juvenile unit)

Yerevan-Kentron Prison

Yerevan-Nubarashen Prison

Yerevan-Prison Hospital.

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

5. In the course of the visit, the delegation held consultations with Hrair TOVMASYAN, Minister of Justice, and Yeghishe KIRAKOSYAN and Aram ORBELYAN, Deputy Ministers of Justice, as well as with Vladimir GASPARYAN, Head of the Police Service, and other senior officials from the Police Service.

Further, the delegation met Aghvan HOVSEPYAN, Prosecutor General, Arman TAMAZYAN, Deputy Prosecutor General, Gevorg KOSTANYAN, Deputy Prosecutor General and Military Prosecutor, and other senior prosecutors.

The delegation also had meetings with Andranik MIRZOYAN, Head of the Special Investigation Service, Mher BISHARYAN, Head of the National Forensic Medical Service, and Masis GHAZANCHYAN, Head of the Public Defenders' Office.

Moreover, it had talks with representatives of the Office of the Human Rights Defender and other members of the National Preventive Mechanism (NPM), as well as with representatives of non-governmental organisations active in areas of interest to the Committee.

A list of the national authorities and NGOs met by the delegation is set out in Appendix II to this report.

6. The co-operation received by the delegation throughout the visit was on the whole very good. The delegation generally enjoyed rapid access to all the establishments visited. Further, it was promptly provided with all the information necessary for carrying out its task and was able to talk in private to all persons it wished to interview.

The CPT wishes to express its appreciation for the assistance provided before, during and after the visit by its liaison officer, Ms Narine Solomonyan, from the Ministry of Justice.

7. However, this generally favourable state of affairs was overshadowed by the fact that, at Yerevan-Nubarashen Prison, the Head of the Security Department had apparently "advised" various prisoners not to complain to the delegation[2].

The CPT must stress that actions of this kind are in clear violation of the principle of co-operation laid down in Article 3 of the Convention. **The Committee trusts that the Armenian authorities will take appropriate steps to ensure that no such actions are encountered during future visits.**

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[2] One such interference was directly witnessed by members of the delegation.

8. The CPT has repeatedly stressed that the principle of co-operation as set out in Article 3 of the Convention is not limited to facilitating the work of visiting delegations, but also requires that recommendations made by the Committee are effectively implemented in practice.

In this regard, it is a matter of grave concern that, despite the specific recommendations made by the Committee after previous visits, two life-sentenced prisoners (prisoners A and B) have been held in solitary confinement at Yerevan-Kentron Prison for more than 13 years, without being offered any out-of-cell activities other than outdoor exercise for one hour per day. The situation is further exacerbated by the fact that, at the time of the visit, neither of the two prisoners was being provided with adequate psychiatric treatment, even though they both suffered from severe mental disorders (see paragraphs 66 to 70).

The CPT must stress that if the Armenian authorities continue to fail to improve the situation of the two above-mentioned life-sentenced prisoners in the light of the recommendations made in paragraph 72, the Committee will have no choice but to set in motion the procedure provided for in Article 10, paragraph 2, of the Convention[3]; it trusts that the action taken in response to those recommendations will render such a step unnecessary.

The Committee wishes to receive within **one month** a full account of action taken to implement the recommendations in paragraph 72.

[3] Article 10, paragraph 2, reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter".

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement agencies

1. Preliminary remarks

9. The legal framework governing deprivation of liberty by the police in Armenia has remained basically unchanged since the last periodic visit in 2010.

According to Article 16 of the Constitution and the relevant provisions of the Code of Criminal Procedure (CCP)[4], criminal suspects may be held in police custody (before being brought before a judge) for a maximum of 72 hours. A protocol of detention must be drawn up within three hours, before the person concerned is taken to the "body of inquiry", investigator or prosecutor[5].

10. The CPT notes with interest that a new draft CCP, which contains *inter alia* provisions which reinforce the fundamental safeguards against ill-treatment for persons deprived of their liberty by the police (see also paragraph 58), has been elaborated and submitted to Parliament. **The Committee would like to receive updated information on this matter as well as a copy of the new CCP once it has been adopted by Parliament.**

11. Persons suspected of having committed an administrative offence may be deprived of their liberty by the police for up to three hours or for up to three days (e.g. in the case of certain offences) prior to the person concerned being brought before a court[6].

2. Ill-treatment

12. As in 2010, the delegation received a significant number of allegations from detained persons that they had been subjected to physical or psychological ill-treatment and/or excessive use of force by police officers. The alleged physical ill-treatment consisted in the main of punches, kicks, or inappropriate use of batons, at the time of apprehension or during subsequent questioning (in particular by operational police officers). In addition, a number of allegations were received of threats of physical ill-treatment (including sodomy) and of repercussions for family members.

In several cases, the ill-treatment alleged was of such a severity that it could easily be considered to amount to torture (e.g. extensive beatings; infliction of electric shocks; simulated asphyxiation with a gas mask; blows to the soles of the feet).

13. Allegations of ill-treatment were received from persons interviewed individually who had had no possibility of contacting each other; the accounts were often highly detailed and frequently displayed consistent features (e.g. placing a gas mask on the head). Further, it is noteworthy that a number of the persons interviewed by delegation members were clearly reluctant to speak about the experiences they had undergone in police custody and only did so after much hesitation.

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4 Sections 11, paragraph 3, 62 and 129 to 131.
5 Section 131.1 of the CCP.
6 See Sections 261 and 262 of the Code of Administrative Offences.

One remand prisoner, who claimed that he had been ill-treated by police officers with a gas mask placed several times on his head in the office of one particular operational police officer at Yerevan-Arabkir Police Division, described in detail the layout of the office and also the precise location where the gas mask had been kept. When the delegation subsequently went to the aforementioned police establishment, it found a gas mask hidden away in the office concerned, as it had been described by the prisoner concerned. It is also noteworthy that the linen bag which contained the gas mask and a leather belt was covered with reddish-brown stains which could be traces of blood (see Appendix III).

14. In a number of cases, the medical examination of the persons concerned and/or the consultation of medical files by the delegation revealed injuries which, in the view of the delegation's doctors, were consistent with the allegations of ill-treatment made. The delegation also met several remand prisoners and persons still held in a police establishment who displayed visible injuries, but who, when asked about the causes of those injuries, refused to give any explanation.

The CPT is also struck by the large number of cases in which injuries were observed by health-care staff on detained persons upon admission to a police detention centre or remand prison and in which the person concerned claimed that these injuries resulted from an "accidental fall" shortly before or during their apprehension[7].

15. The information gathered during the visit indicated that police ill-treatment all too often appeared to be related to an overemphasis on obtaining confessions during criminal proceedings and to pressure on the part of police officers to obtain high "clear-up" rates (as was the case during all previous visits).

16. By contrast, the delegation received no allegations of ill-treatment by custodial staff working in police detention centres.

17. The delegation gained the impression (including after interviews with detained persons who had previous experience in police custody) that the behaviour of police officers towards detained persons had somewhat improved in recent times. Nevertheless, in the light of all the information gathered during the visit, the CPT cannot but conclude that the phenomenon of ill-treatment by the police still remains widespread and that the risk of ill-treatment is particularly high vis-à-vis persons who do not immediately confess to an offence of which they are suspected or provide other information sought by the police.

By letter of 30 September 2013, the Armenian authorities informed the CPT that "officers employed in all the divisions of the Police are regularly informed, both via separate instructions and official trainings, that any manifestation of ill-treatment may not be used for the purposes of extracting confession from a person for acts allegedly performed thereby or receiving other information. Any manifestation by the police officers of cruel, disrespectful treatment against citizens, moreover, any case of torture and inhuman or degrading treatment becomes a subject of extensive discussions at the RA Police, and the officials responsible for this are subjected to disciplinary sanctions, as well as criminal liability" […] In addition, it has been decided that the sections of CPT reports on Armenia that relate to the Police should be introduced to all officers. In this regard, a draft instruction of the RA Police has already been developed to this end; it will be signed by the Head of Police and will have an effect of a legal act and become universally binding upon approval."

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[7] See, in this regard, also paragraphs 23, 29, 36 and 38.

The CPT takes note of this information and urges **the Armenian authorities to deliver to all police officers a strong message, emanating from the highest political level, that any form of physical ill-treatment of detained persons constitutes a criminal offence and will be punished accordingly.**

Further, **the Committee recommends that greater emphasis be given to modern, scientific methods of crime investigation, including through appropriate training of police officers, so as to reduce the reliance on confessions to elucidate crimes.**

3. Recording of injuries and allegations

a. introduction

18. The CPT has repeatedly stressed the crucial importance of prompt and thorough medical screening of persons admitted to a remand prison, proper recording of all observed injuries and the timely transmission to the authorities concerned of relevant information obtained through that screening in order to combat torture and other forms of ill-treatment (see, in this regard, Section 4).

19. In the course of the visit, the delegation examined in detail the admission procedures at Abovyan and Yerevan-Nubarashen Prisons, as well as in several police divisions, and scrutinised relevant documentation in the establishments visited.

b. medical confidentiality

20. The CPT is very concerned by the fact that, despite the specific recommendation repeatedly made by the Committee after previous visits, the confidentiality of medical consultations was still not respected in any of the establishments visited. Clearly, the relevant instruction[8] issued by the Armenian authorities in the past, in the light of the CPT's long-standing recommendation, has remained a dead letter.

In all the police establishments visited, medical examinations by doctors or feldshers were usually carried out in the presence of police officers (custodial and/or operational officers dealing with the criminal case[9]). Further, at Abovyan and Yerevan-Nubarashen Prisons, a prison officer was usually present during medical examinations of prisoners, both the examination shortly after their arrival and any subsequent examinations during their imprisonment. Moreover, it appeared to be common practice for police officers to be present during forensic medical examinations[10].

It is self-evident that, under such circumstances, detained persons being examined are not likely to speak openly about injuries inflicted by police officers. **The CPT once again calls upon the Armenian authorities to take immediate steps to ensure that, in all police and prison establishments in Armenia, medical examinations of detained persons are always conducted out of the hearing and – unless the health-care staff concerned request otherwise in a particular case – out of the sight of police/prison officers.**

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8 See, in particular, Point 13 of Government Decree No. 574-N of 5 June 2008.

9 Several detained persons interviewed by the delegation claimed that an operational police officer who had previously ill-treated them was present during the medical examination.

10 See also paragraph 61.

c. screening on admission to prison

21. At Abovyan and Yerevan-Nubarashen Prisons, the screening on admission was performed in two stages:

First, every newly-arrived remand prisoner was immediately screened for visible injuries by a doctor or nurse in the establishment's admission area, as part of the administrative procedure followed when a detained person is handed over to the custody of the prison. In practice, such screening usually took place in the presence of both a custodial prison officer and an escorting police officer. Moreover, already at this stage, newly-arrived prisoners were often asked questions about the circumstances in which they had sustained their injuries.

As a second step (usually on the same day), newly-arrived prisoners were subjected to a comprehensive medical examination in the medical unit. As regards the presence of custodial prison officers during such examinations, reference is made to the remarks and recommendation in paragraph 20.

22. When injuries had been recorded by a member of the health-care staff during the initial screening of a newly-arrived remand prisoner, the following procedural steps were taken in both establishments:

1. An attestation with a description of the observed injuries was drawn up by the doctor or nurse who had examined the person concerned.
2. Another form (so-called "ACT") containing the same information as the aforementioned attestation was signed by the doctor or nurse, the receiving prison officer and the team leader of the escorting police officers and the prisoner concerned and was then forwarded to the establishment's Security Department (through the Director).
3. At a later stage, a written statement was taken from the person concerned by an officer of the establishment's internal security department on how the observed injuries had been sustained.
4. The case was recorded in the establishment's centralised register of traumatic lesions.

As regards the related reporting procedures, see Section 4.b.

23. The CPT considers it is essential that, during the initial screening, which is primarily of an administrative nature, health-care staff are as a rule not directly involved and newly-arrived prisoners are not questioned about the origin of any visible injuries. A number of persons interviewed by the delegation stated that, when asked such questions, they had been frightened to reveal the true origin of their injuries in the presence of police and prison officers. It is also striking that, according to the register consulted in the different establishments visited, the overwhelming majority of detained persons who had displayed injuries upon their admission to prison gave stereotype explanations that the injuries resulted from an "accidental fall"[11], when they were subsequently questioned by an officer of the establishment's internal security department.

[11] See also paragraphs 14, 29, 36 and 38.

24. In both establishments, the recording of observed injuries was on the whole adequate.

However, on several occasions, only the type of injury such as "bruises" or "haematoma" was recorded, without any further description.

Further, in those cases where a statement of a prisoner regarding the origin of injuries was recorded, no conclusions were made by the doctor at any stage of the procedure as to the consistency of the injuries with the statements made. At Abovyan Prison, the prison doctor stated that taking of statements and making an assessment of their consistency with the observed injuries was not the "business" of health-care staff. Such a position is in clear contradiction with the above-mentioned Government Decree No. 574-N of 5 June 2008.

25. **The CPT recommends that the Armenian authorities take the necessary steps (including through the issuance of instructions and the provision of training to relevant staff) to ensure that in <u>all</u> prisons in Armenia:**

- **members of the health-care staff are as a rule[12] not directly involved in the administrative procedure of handover from police custody;**

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

- **all newly-arrived prisoners are subjected as soon as possible, and no later than 24 hours after their admission, to a comprehensive medical examination by a health-care professional in a medical unit of the prison, under conditions guaranteeing medical confidentiality[13];**

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

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

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

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12 Naturally, a health-care staff member should be consulted immediately whenever a newly-arrived prisoner requires urgent medical assistance or if there are doubts as to whether the state of health of the person concerned is compatible with admission to prison.

13 See also the recommendation made in paragraph 20.

Further, **the Committee recommends that steps be taken by the relevant authorities to ensure that, whenever traumatic lesions are recorded by a health-care professional which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of an allegation, are indicative of ill-treatment), the record is immediately and systematically forwarded to the competent prosecutor, regardless of the wishes of the person concerned.**

26. At Abovyan Prison, the delegation observed that remand prisoners were subjected to a medical examination before and after they were exceptionally taken to a police establishment for investigative purposes. This measure is to be commended. Regrettably, no such examinations were carried out at Nubarashen Prison.

The CPT recommends that steps be taken at Yerevan-Nubarashen Prison as well as in other prisons in Armenia, to ensure that a medical examination is also carried out in respect of prisoners taken back to the prison by the police, after having participated in investigative activities.

d. screening at the level of temporary detention facilities

27. Section 21 of the Law on the Treatment of Arrestees and Detainees (LTAD) and Government Decree No. 574-N of 5 June 2008 stipulate that, whenever a bodily injury is detected on a detained person, "the medical personnel of the place of arrest or detention" or an external doctor called by the police shall examine the person concerned immediately.

28. The delegation was informed that, at the time of the visit, the Detention Centre of Yerevan City Police Department was the only police establishment in the country which had its own health-care staff. Four full-time feldshers were employed and ensured a 24-hour presence on a rota basis. Upon arrival, every detained person was subjected to a medical examination by a feldsher. Detected injuries were recorded in a medical logbook, and an injury form was completed in every case by the feldsher and co-signed by the officer who had brought in the person concerned, a custodial officer and the detained person him/herself. Subsequently, an "ACT" was prepared and a brief statement was taken by a police officer from the detained person regarding the origins of the injuries sustained.

As regards the related reporting procedures, see Section 4.b.

29. Already in the report on the 2010 visit[14], the CPT had expressed its misgivings about the formal position of feldshers at the Yerevan Detention Centre who are members of the police service.

It is evident that given both their status as police officers and the presence of other police officers during medical examinations, feldshers are likely to face a conflict of interest. Further, they are usually not perceived by detained persons as being independent, which clearly has a detrimental effect on the prevention of ill-treatment.

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14 See CPT/Inf (2011) 24, paragraph 35.

Virtually all the remand prisoners met by the delegation at Nubarashen Prison who claimed that they had sustained injuries as a result of police ill-treatment indicated that they had not informed the feldsher in the Yerevan Detention Centre of the injuries or had given false explanations about the real causes of the injuries. A number of persons also claimed that they were pressurised by police officers to sign a statement that they had sustained injuries prior to their apprehension.

By way of example, when consulting the register of traumatic lesions at the Yerevan Detention Centre, the delegation found that most of the persons registered as having arrived with injuries had "no complaints", and in many cases, explanations were added that the injuries resulted from an "accidental fall"[15].

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

Further, **as regards the systematic presence of police officers during medical examinations, reference is made to the recommendation in paragraph 20.**

30. In other police establishments visited (such as Abovyan), injuries which were detected on a detained person in the context of the initial body search were recorded by the police officer in a special logbook. A health-care professional was usually involved only in cases requiring medical treatment.

It is obvious that only a health-care professional is qualified to make an accurate description of injuries. Consequently, **the CPT recommends that the task of recording any injuries displayed by detained persons on admission to a police detention facility be carried out by a health-care professional, if necessary, by having recourse to the emergency services.**

31. **The CPT recommends that the Armenian authorities take the necessary steps to ensure that in <u>all</u> police detention centres in Armenia, the record drawn up by a health-care professional in a police establishment after a medical examination of a detained person contains the information set out in paragraph 25 (fourth indent).**

Further, **the Committee recommends that steps be taken to ensure that:**

- **a form containing distinct sections for the detainee's statements, the health-care professional's objective medical findings and the health-care professional's observations in the light of these two elements is introduced in all police establishments in Armenia;**

- **in the context of the admission procedure, detained persons are no longer required to give a statement to a police officer regarding the origin of injuries sustained;**

- **whenever injuries are recorded by a health-care professional which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of an allegation, are indicative of ill-treatment), the record is immediately and systematically forwarded to the competent prosecutor, regardless of the wishes of the person concerned.**

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[15] See also paragraphs 14, 23, 36 and 38.

Finally, **the Committee encourages the Armenian authorities to take the necessary measures to extend the practice of conducting a systematic medical screening of newly-admitted detained persons to all other police detention centres in Armenia** (as is in principle provided by the LTAD as well as by the Statute of police holding facilities which has been established by Government Decree No. 574-N of 5 June 2008).

4. Reporting of injuries and action taken by prosecutors and the SIS

a. introduction

32. The CPT recalls the important role played by judges and prosecutors, but also by other competent authorities (see Section 3), in preventing ill-treatment by police officers through the diligent examination of all relevant information indicative of possible ill-treatment which may come to their attention, whether or not that information takes the form of a formal complaint. If the emergence of such information is not followed by a prompt and effective response, those minded to ill-treat persons deprived of their liberty will quickly come to believe – and with very good reason – that they can do so with impunity.

33. In recent years, the Armenian authorities have made commendable efforts to improve the processing of cases of possible police ill-treatment.

In particular, the Special Investigation Service (SIS) was established in 2007 as a separate agency specialised in the carrying out of preliminary investigations of cases possibly involving abuses by public officials[16]. Among other things, the SIS has the exclusive power to carry out pre-trial criminal investigations regarding all criminal offences potentially committed by police officers (see Section 4.c.). In exercising its powers, the SIS is independent of any other administrative authority. The Prosecutor General is responsible for controlling the lawfulness of the actions conducted by the SIS. The Head of the SIS is appointed by the President of the Republic, upon the recommendation of the Prosecutor General. Together with a deputy appointed by him, he manages a team of 23 special investigators.

Further, instructions[17] were issued by the Prosecutor General to the effect that all cases of lesions detected upon admission to a detention facility shall be reported to the supervising prosecutor responsible for the establishment[18] and that all information indicative of ill-treatment by law enforcement officials shall be immediately transmitted to the Prosecutor General. Another instruction was issued by the Collegium of the Prosecutor's Office on 10 August 2012 to regard notifications about bodily injuries found during the medical examination at the time of admission of persons to detention facilities as grounds for instituting a criminal case.

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16 See also paragraphs 21 to 26 of the report on the 2010 visit (CPT/Inf (2011) 24).

17 Instructions No. 17/8-36-11 of 16 March 2011, No. 20/2(3)-120-11 of 19 April 2011 and No. 20/2(3)-118-13 of 8 April 2013. See also the related Instruction of the Head of the Penitentiary Department to all prisons (circular letter N E-40/7-790 dated 23 March 2011).

18 According to the LTAD, supervising prosecutors only have to be informed of cases of death or serious illnesses of detained persons.

b. reporting procedures and screening by prosecutors of notified injuries

34. The delegation had the opportunity to discuss at some length the implementation in practice of the procedures referred to in paragraph 33 with the Prosecutor General and supervising prosecutors as well as with the Head of the SIS. Further, it examined registers of traumatic lesions and medical reports/files and followed up a number of individual cases in order to review the action taken by the relevant authorities in relation to injuries which had been detected on detained persons on admission to a remand prison or a police establishment. To this end, members of the delegation had consultations with the competent prosecutors who had received notifications of such injuries as well as with SIS investigators who had handled investigations into complaints about police ill-treatment in selected individual cases (see Section 4.c.).

35. At *Abovyan and Yerevan-Nubarashen Prisons*, the following standard reporting procedure was applied whenever injuries were observed by health-care staff on a newly-arrived remand prisoner:

The "ACT" referred to in paragraph 22, along with the statement which had been taken from the prisoner concerned by an officer of the establishment's internal security department, was transmitted (by mail) to the supervising prosecutor of the prison (at the level of the Office of the Prosecutor General[19]), to the local prosecutor who has the territorial competence for the police establishment concerned and to the "body of inquiry" (i.e. the police investigator handling the criminal case). In addition, relevant information was regularly communicated (by telephone) to the Ministry of Justice (Prison Service).

In cases where the prisoner concerned had made an explicit allegation of police ill-treatment, the "ACT" was not sent to the police investigator but instead to the internal security service of the police establishment concerned (in addition to the supervising prosecutor and the local prosecutor).

36. At Nubarashen Prison, members of the delegation had a meeting with the supervising prosecutor responsible for the establishment. He explained that he visited the prison every two days and that he checked the register of traumatic lesions on a regular basis. During his visits, he would also talk to prisoners directly, at their request or at his own initiative. He also regretted the fact that no investigators were affiliated to his service to whom he could delegate the carrying out of investigative acts. Whenever prisoners made an explicit allegation of police ill-treatment upon admission to the prison, he would transmit the above-mentioned "ACT" and the written statement of the person concerned to the Prosecutor General. Subsequently, it would be up to the Prosecutor General to decide on whether to forward the file for further investigation to the SIS. On the other hand, if injuries were observed on a newly-arrived remand prisoner but there were no other signs of any police misconduct, no further action would be taken by the supervising prosecutor.

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[19] The Department of the Office of the Prosecutor General which is responsible for the supervision of prisons comprises seven prosecutors. Their main task is to exercise "legal control" over various types of administrative decisions in the prison(s) concerned and to supervise criminal investigations regarding offences committed inside the prison.

When asked whether he had ever had any doubts about the veracity of the explanations given by prisoners about the "accidental" origin of the injuries they displayed on arrival to the prison, the prosecutor replied that so far this had never been the case.

In this regard, the CPT is struck by the fact that in about 50% of the 30 cases of injuries which had been notified to the prosecutor in the first quarter of 2013, the persons concerned had given similar explanations such as "fallen before arrest", "fallen on the street", "accidentally fallen", "fallen at home"; "fallen on the ice", "fallen on the staircase", etc.[20]. Yet, in not one single case had the prosecutor considered it appropriate to ask the prisoner concerned any questions about the circumstances in which they had sustained the injuries. Consequently, none of these cases had been reported to the Prosecutor General. In the CPT's view, a much more proactive approach on the part of the prosecutor is called for in such cases.

37. According to the Instructions of the Prosecutor General of April 2011 (see paragraph 33), the obligation to notify all cases of lesions detected upon admission to the competent supervising prosecutor (irrespective of whether an explicit allegation of ill-treatment has been made) also applies to *police establishments*.

At the Yerevan Detention Centre, the delegation was informed that, whenever injuries were detected on a newly-arrived detained person, the "ACT" referred to in paragraph 22, was systematically forwarded to the "body of inquiry" (i.e. the police investigator in charge of the criminal case), and injury reports were transmitted to the supervising prosecutor on a weekly basis[21]. Such a practice clearly impedes the prompt initiation of any investigative actions.

38. As already mentioned in paragraph 28, in other police establishments, the screening for injuries was usually performed by police officers.

By way of example, at the Abovyan Police Division, the delegation noted that a total of 19 cases of injuries detected upon admission had been notified to the supervising prosecutor in 2012 and two in 2013. In all these cases, the persons concerned had stated that they had sustained the injuries prior to their apprehension (most frequently by "falling down")[22].

39. Following the visit to the Abovyan Police Division, members of the delegation met the Regional Prosecutor of Razdan (Kotayk region) in his capacity as competent supervising prosecutor, in order to review the action taken by him upon receipt of the above-mentioned notifications.

The prosecutor indicated that he would usually instruct investigators of the police establishment where the person concerned had been detained to collect further information on the case and to request a forensic medical examination (in order to determine the date when the injuries had been sustained). If, in this connection, signs of police misconduct were found, he would report the case to the Prosecutor General, with a view to involving the SIS.

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20 See also paragraphs 14, 23, 29 and 38.

21 In 2012, 776 persons had been admitted to the Detention Centre and 138 cases of injuries were notified to the prosecutor. In the first quarter of 2013, 199 persons had been admitted to the Centre and 35 cases of injuries were notified to the prosecutor.

22 See also paragraphs 14, 23, 29 and 36.

When asked about the potential conflict of interest which may arise when police officers are tasked to conduct investigative actions against colleagues from the same police establishment, the prosecutor replied that he did not see any problem in this regard "although a totally independent investigative body would be ideal".

40. Apart from one particular case (in which the person concerned had lodged a formal complaint with the Prosecutor General about police ill-treatment), none of the 19 above-mentioned cases had been notified to the Prosecutor General. It would appear that no additional verifications were made by the regional prosecutor in any of these cases.

41. The issue of screening of notifications of injuries by supervising prosecutors responsible for prisons and police establishments respectively was also discussed at a separate meeting with several supervising prosecutors and other senior prosecutors working with the Office of the Prosecutor General.

At that meeting, the delegation was informed that, whenever supervising prosecutors received an explicit allegation of police ill-treatment in relation to notified injuries observed on a detained person, they were obliged to systematically inform the Prosecutor General. Before reporting a case to the Prosecutor General (with a view to involving the SIS), supervising prosecutors who had received a notification of bodily injuries were always required to make an initial assessment as to whether there were sufficient grounds for initiating a criminal case. For this purpose, they should consult the medical report and talk to the person concerned. Since prosecutors were not entitled to carry out investigations themselves, they could instruct the police to gather further information on the case at the local level.

42. However, from the information gathered during the visit, it transpired that in practice supervising prosecutors usually made additional verifications only in cases where the person concerned had explicitly alleged ill-treatment by the police or had lodged a formal complaint to that effect, in the context of the initial statement given to an officer of the internal security department of the prison regarding the origin of injuries sustained. Further, the delegation was surprised to learn that whenever supervising prosecutors interviewed detained persons they usually did not keep any written record.

43. As regards the involvement of police officers in gathering relevant information in cases of possible police ill-treatment, reference is made to the remarks in paragraphs 45 and 52.

c. investigations by the SIS

44. As already mentioned in paragraph 33, the SIS has been established as an independent agency which *inter alia* has the exclusive power to carry out pre-trial criminal investigations regarding all criminal offences potentially committed by police officers.

Notwithstanding that, the SIS was not involved automatically after allegations of ill-treatment had been made or other information indicative of ill-treatment by the police had emerged. Instead, it was formally requested by the Prosecutor General[23] to carry out investigations only once a criminal case had been opened and after relevant information had been scrutinised by supervising or local prosecutors (possibly with the involvement of police officers at local level[24]) as well as by the Prosecutor General.

45. The delegation was informed that, due to its limited resources and the lack of operational staff, the SIS was not in a position to perform all the necessary investigative actions on its own. As a matter of fact, the collection of further evidence was often delegated by the SIS to police officers (i.e. police investigators or officers of the local branch of the Internal Security Service) from the same police establishment as that where the police officers under investigation were employed.

46. The delegation selected a sample of recent cases in which detained persons had lodged a formal complaint about police ill-treatment; in each of these cases, the conclusion of the investigations by the SIS had been that the allegations made were unfounded, and the criminal files had thus been closed. In order to examine the investigative actions conducted in these cases, members of the delegation had consultations with the relevant SIS investigators in charge of the investigation.

The delegation noted that in all cases a forensic medical examination had been carried out. However, it is a matter of concern that in all these cases, local police officers had been involved in the collection of evidence (including the taking of statements from the alleged victim of ill-treatment) at the initial stage of the investigation.

Further, in the CPT's view, it is abnormal that in one case, the responsible SIS investigator decided to close the file without ever having questioned the alleged victim of police ill-treatment. The investigator had personally interviewed all the implicated police officers, but not the complainant, and had simply relied on the written statement of the latter taken by a local police investigator.

In another case, the delegation was informed that the SIS investigator responsible had interviewed the alleged victim of police ill-treatment as well as two police officers as alleged perpetrators. However, the investigator did not consider it appropriate to arrange also for a cross-examination of the alleged victim and perpetrators, giving as the reason: "because the statements given by the police officers were credible". The CPT considers that for the investigation in this case to meet the criterion of thoroughness, *inter alia* such a cross-examination should have been carried out.

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23 The Prosecutor General alone has the power to refer a case, for further investigation, to the SIS.

24 See paragraph 52.

Moreover, the delegation observed that in some of the cases examined, a forensic medical examination was performed only after a considerable delay (i.e. up to several weeks).

47. In 2012, the SIS received 43 cases of possible police ill-treatment and, in the first quarter of 2013, 16 such cases were registered. The delegation was informed that, at the time of the visit, investigations were pending with the SIS in five cases, while in one case (registered in 2012) the police officers concerned had been indicted and the trial was still going on. In all the other cases (i.e. 54 out of 59), the SIS concluded that the allegations of ill-treatment made were unfounded and therefore the files had been closed.

In their letter of 30 September 2013, the Armenian authorities informed the CPT that "[d]uring 2010-2012 the Special Investigation Service carried out investigation into 86 cases involving the offences concerned, and during the period from 1 January to 10 September of 2013 the Service has carried out and continues investigation of 78 cases involving offenses of such nature. Four cases of criminal prosecution against 11 persons have been sent to the court, two of the cases against three persons are pending in the court."

48. It remained somewhat unclear to what extent complaints of police ill-treatment lodged by detained persons had been scrutinised and dismissed by prosecutors without involving the SIS.

In order to obtain a more comprehensive and up-to-date picture of the situation regarding the treatment of persons detained by the police, **the CPT would like to receive the following information, in respect of the period from 1 January 2011 to the present time:**

(a) the total number of complaints of ill-treatment lodged by detained persons against police officers;

(b) the number of criminal/disciplinary proceedings which have been instituted as a result of complaints about police ill-treatment;

(c) the number of criminal/disciplinary proceedings which have been instituted *ex officio* (i.e. without a formal complaint) into possible police ill-treatment;

(d) the outcome of the proceedings referred to in (b) and (c), including an account of criminal/disciplinary sanctions imposed on police officers.

d. conclusion and proposed action

49. The CPT acknowledges the efforts made by the Armenian authorities to improve the system of handling cases possibly involving ill-treatment by the police. In this connection, the creation of the SIS is undoubtedly a major step forward.

50. However, the visit revealed a number of flaws in the current system which clearly undermine the effectiveness of any action taken to detect and investigate potential cases of police ill-treatment.

First and foremost, due to the total lack of medical confidentiality during physical examinations by health-care staff of detained persons – including during forensic medical examinations – victims of police ill-treatment are discouraged from giving an accurate account of how they have sustained their injuries[25]. Thus, from the outset, instances of police ill-treatment are likely to remain undetected.

51. The situation is further exacerbated by the existence of a judicial culture which often tends to attach too much "intrinsic" importance to the statement made by a detained person during the initial screening procedure in a remand prison or police establishment. If a detained person who displays visible injuries states that he/she has fallen before or during the apprehension and does not make any allegation of ill-treatment at the moment when the "ACT" is being drawn up, the relevant judicial authorities usually refrain from calling into question any statement made at that stage. And, what is of even greater concern, they consider any subsequent alteration of the statement which then implies any ill-treatment by a police officer to be false and refuse to take it into account.

Put another way, unless victims of police ill-treatment as from the very outset lodge a formal complaint or at least make an explicit allegation to that effect, the existing reporting procedures and the role of supervising prosecutors constitute a mere formality and do not serve their ultimate purpose, namely the prevention of torture and other forms of ill-treatment.

52. As regards the role and work of the SIS, the CPT is very concerned by the frequent involvement of police officers (including officers from the same police establishment as that where the police officers under investigation are employed) in the collection of relevant evidence in potential cases of police ill-treatment. It goes without saying that such a practice seriously compromises the independence and impartiality of the work of the SIS and also runs counter to the very concept of setting up the SIS as a specialised investigative body.

In this connection, it should be added that the delegation once again encountered a lack of confidence among detained persons in the SIS' oversight of the activities of the law enforcement agencies, as it was often perceived as not being independent of the police. The persistence of this problem was also acknowledged by various interlocutors (including by members of staff of the SIS themselves).

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[25] See paragraphs 20, 21, 23, 28 and 29.

53. Further, it is regrettable that, under the current system, the SIS is usually not involved in the collection of evidence in the context of preliminary inquiries regarding cases of possible police ill-treatment, before a formal criminal investigation has been opened. In the CPT's view, all formal complaints of detained persons about police ill-treatment, as well as all cases in which detained persons have made an allegation of ill-treatment (e.g. in the context of medical screening upon admission to a detention facility), should immediately be forwarded to and processed by the SIS.

54. **The CPT recommends that steps be taken by all relevant authorities to review the current system of handling cases involving possible ill-treatment by police officers, in the light of the above remarks.**

More specifically, **steps should be taken to ensure that:**

- **the SIS is significantly reinforced in terms of staff, in particular, for the purpose of carrying out operational tasks in the context of criminal investigations, thereby removing the need to rely on local police officers;**

- **increased emphasis is placed on the structural independence of the SIS and the existence of transparent procedures in order to enhance public confidence and that persons alleging ill-treatment have direct and confidential access to the SIS;**

- **all SIS officers are reminded of their obligation to carry out investigations in a thorough and comprehensive manner, having regard to the remarks made by the CPT in its 14th General Report (CPT/Inf (2004) 28; in particular, paragraphs 32 to 36);**

- **police officers who are affiliated to the implicated police establishment are no longer involved in (preliminary) criminal investigations regarding potential cases of police ill-treatment;**

- **all formal complaints about police ill-treatment as well as all cases in which detained persons have made an allegation of ill-treatment and are found to bear injuries consistent with that allegation, are promptly forwarded to and processed by the SIS;**

- **whenever a detained person displays injuries indicative of ill-treatment or makes allegations of ill-treatment, he or she is promptly seen by a doctor with recognised forensic training;**

- **all prosecutors responsible for the supervision of prisons and police establishments are instructed by the Prosecutor General to play a more proactive role in detecting cases of possible police ill-treatment and to draw up a written record whenever they interview a detained person;**

- **the Prosecutor General further improves the flow of information between the different (regional and supervising) prosecutors, exercises an effective control over them and guarantees that criminal investigations into allegations of police ill-treatment are carried out in an effective manner.**

5. Fundamental safeguards against police ill-treatment

55. The CPT has repeatedly stressed that the fundamental safeguards for persons deprived of their liberty by the police, namely the right to inform a close relative or another person of one's custody, the right of access to a lawyer and the right of access to a doctor, should be granted from the very outset of custody. They should apply not only to persons detained by the police on suspicion of having committed a criminal offence, but also to administrative detainees, as well as to persons who are obliged to remain with the police for other reasons.

56. In this regard, the delegation observed a number of improvements. In particular, detained persons are now entitled to have access to a doctor (including to one of the person's own choice), and, contrary to the 2010 visit, hardly any complaints were received from detained persons about delays in seeing a doctor (see, however, paragraph 20 regarding the systematic presence of police officers during medical examinations). Further, the system of legal aid appeared to work more effectively than in 2010. It is also noteworthy that most of the juveniles interviewed by the delegation indicated that a parent or lawyer was present when they were questioned by a police officer and required to sign a statement.

57. Notwithstanding that, it is a matter of concern that the existing safeguards (in particular, the right of notification of custody and the right of access to a lawyer) were often not granted at the outset of the de facto deprivation of liberty, but only once the protocol of detention had been drawn up. Apparently, the Instruction[26] issued by the Head of the Police on 3 April 2010, according to which detained persons are allowed to have access to a lawyer before the drawing up of the protocol of detention, was not being followed in practice.

Further, it remained the case that, following their deprivation of liberty, persons were often subjected to informal questioning, during which confessions were obtained, without benefiting from the above-mentioned safeguards. It is of particular concern that the delegation received a significant number of consistent and credible accounts from detained persons that suspects were kept in police stations for periods of up to 24 hours and, on occasion, even longer, whilst inquiries (including interviews with operational officers) were conducted, prior to formal interviews with investigators. Such a state of affairs is unacceptable and also constitutes a flagrant disregard of the relevant legislation and, more specifically, of the legal requirement to draw up a protocol of detention within three hours.

58. By letter of 30 September 2013, the Armenian authorities provided the following information:

> "The rights and duties of the arrested persons […], as well as the "Hot Line" telephone number of the Staff of the Human Rights Defender of the Republic of Armenia and that of the social observers' group exercising supervision in the facilities for holding the arrested persons of the system of the RA Police are posted in corridors and cells of the Police Holding Facilities (PHFs). […]

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[26] See page 7 of the Armenian authorities' response to the report on the 2010 visit (CPT/Inf (2011) 25).

According to the draft Code [of Criminal Procedure], any arrested person from the moment of de-facto deprivation of liberty has the following minimal rights:

i) to be orally informed about their minimal rights and responsibilities at the moment of de-facto deprivation of liberty, and to be informed about those minimal rights and responsibilities in written once entered the police station;
ii) to be informed about reasons of deprivation of liberty;
iii) to notify a person of their own choice about their arrest;
iv) of access to a lawyer;
v) of access to a doctor (including, their own doctors).

In order to ensure proper implementation of these rights, the draft Code has established relevant obligations for law-enforcement officials as legal guarantees."

59. The CPT takes note of this information. In the light of the remarks made in paragraph 57, **the Committee calls upon the Armenian authorities to take all the necessary steps to ensure that:**

- **the legal requirement to draw up a protocol of detention within three hours is strictly complied with in practice and that the procedures of "inviting a person to a police establishment" or of summoning witnesses to an interview are not exploited by operational police officers to circumvent the legal time-limits and safeguards in respect of the police custody of criminal suspects;**

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

- **the right of notification of custody is rendered fully effective in practice with respect to all persons deprived of their liberty by the police, as from the very outset of their deprivation of liberty;**

- **the right of access to a lawyer is enjoyed by all persons obliged to remain with the police, as from the very outset of their deprivation of liberty;**

- **all persons detained by the police – for whatever reason – are fully informed of their above-mentioned fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information at the moment of apprehension, to be supplemented at the earliest opportunity (that is, immediately upon the detained person's first entry into police premises) by the provision of a written form setting out his/her rights in a straightforward manner. The form should be available in an appropriate range of languages. Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case.**

60. As stressed in previous visit reports, the securing in good time of forensic medical evidence will often be crucial for the effectiveness of an investigation into allegations of ill-treatment (see also Section 4).

In the report on the 2010 visit, the CPT had recommended that persons who display injuries and make allegations of ill-treatment be entitled to a forensic medical examination without prior authorisation from an investigator, prosecutor or judge. In their response to the aforementioned visit report, the Armenian authorities confirmed that, according to Section 15 of the LTAD, "an arrested or detained person and, in consent of an arrested or detained person, also his/her lawyer have the right to demand the forensic medical examination"[27]; the same information was also provided by the Armenian authorities in their letter of 30 September 2013.

However, during consultations with various interlocutors, including with the Director of the National Forensic Medical Institute, the delegation was told that detained persons cannot have access to such an examination without the prior authorisation/request by an investigative body (i.e. police investigator or prosecutor).

The CPT considers that any detained person, as well as anyone who has been detained and subsequently released, should be entitled on his/her own initiative to obtain an examination by a doctor with recognised forensic training. **The Committee recommends once again that the Armenian authorities take the necessary steps to ensure that such persons are entitled to a forensic medical examination without prior authorisation from an investigator, prosecutor or judge.**

61. It is regrettable that forensic medical examinations were usually performed without taking any photographs of the injuries concerned. **The CPT recommends that such a practice be introduced, in accordance with established international standards (cf. paragraph 106 of the "Istanbul Protocol"[28]).**

Further, the delegation noted that police officers were frequently present during forensic medical examinations. **The recommendation in paragraph 20 applies equally in this context.**

62. The delegation was informed that CCTV cameras had been installed in detention areas and corridors of all police establishments, as well as in designated interrogation rooms of certain police divisions.

In this connection, the Committee notes with interest that the Code of Criminal Procedure provides for the possibility of using audio- and video-recording in the context of police questioning. Such a facility can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of any allegations of ill-treatment. This is in the interest both of persons who have been ill-treated by the police and of police officers confronted with unfounded allegations that they have engaged in physical ill-treatment or psychological pressure.

The CPT encourages the Armenian authorities to take the necessary steps to ensure that interviews of detained persons with police officers are systematically audio- and/or video-recorded. Further, **a copy of the electronic recording should be made available to the detained person and/or his/her lawyer.**

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27 See page 8 of CPT/Inf (2011) 25.

28 "Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment".

B. Situation of life-sentenced prisoners at Yerevan-Kentron Prison

63. As indicated in paragraph 3, the delegation carried out a target visit to Yerevan-Kentron Prison, in order to review the conditions under which life-sentenced prisoners were being held in the establishment, in the light of the specific recommendations made after the 2010 and 2011 visits[29].

Kentron Prison is located within the compound of the National Security Service in Yerevan. At the time of the visit, the prison was accommodating the same three life-sentenced prisoners as in 2011, namely prisoners A and B, who had been held there since 2000, as well as prisoner C, who had been admitted to the establishment shortly before the 2011 visit.

64. The delegation observed certain improvements regarding the situation of prisoner C, in particular in terms of the prisoner's contact with the outside world. The prisoner could make telephone calls every ten days for at least 20 minutes, receive short-term visits (every three months for one hour) under *open* conditions and benefit from a three-day unsupervised visit by his wife and child once a year; for this purpose, he was each time temporarily transferred to Nubarashen Prison (due to the lack of appropriate facilities at Kentron Prison).

However, it is regrettable that, despite the specific recommendation repeatedly made by the Committee after previous visits, the visit entitlement of life-sentenced prisoners remains significantly lower than that of other sentenced prisoners[30] for as long as they are not eligible for conditional release (i.e. during 20 years[31]). In this regard, reference is also made to the relevant case-law of the European Court of Human Rights[32].

The CPT recommends once again that the Armenian authorities take the necessary steps to ensure that the relevant legislation is amended with a view to bringing the visit entitlement of life-sentenced prisoners on a par with that of other sentenced prisoners.

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29 See paragraphs 70, 71 and 73 of CPT/Inf (2011) 24 and paragraphs 13, 15 and 22 of CPT/Inf (2012) 23.

30 According to Section 92, paragraph 2, of the Penitentiary Code, sentenced prisoners are entitled to at least one short-term visit of up to four hours per month and one long-term visit of up to three days every two months (instead of a short-term visit).

31 See Section 92, paragraph 2, of the Penitentiary Code and Section 76, paragraph 5, of the Criminal Code.

32 See, for instance, the judgment *Trosin v. Ukraine* (Application no. 39758/05, 23 February 2012), in which the Court found a violation of the European Convention on Human Rights since "the relevant provisions of domestic law introduced automatic restrictions on frequency and length of visits for all life prisoners and did not offer any degree of flexibility for determining whether such severe limitations were appropriate or indeed necessary in each individual case even though they were applied to prisoners sentenced to the highest penalty under the criminal law". The Court further considered "that regulation of such issues may not amount to inflexible restrictions and the States are expected to develop their proportionality assessment technique enabling the authorities to balance the competing individual and public interests and to take into account peculiarities of each individual case."

65. The CPT understands that prisoner C is being held at Kentron Prison for his own protection and that he is thus *de facto* subjected to a solitary confinement regime. Notwithstanding that, it is a matter of concern that, apart from one hour of outdoor exercise per day (taken alone), the prisoner concerned remained locked up in his cell all day, the only activity being reading, watching television and playing computer games.

The CPT recommends the Armenian authorities take steps to ensure that prisoner C is offered a range of purposeful out-of-cell activities (including sports). Further, **steps should be taken to provide the prisoner concerned with appropriate human contact.**

66. As regards the two other prisoners sentenced to life-imprisonment (prisoners A and B), the CPT is very concerned that hardly any of the specific recommendations previously made have been implemented.

Despite some basic refurbishment, material conditions of detention in the two single cells remained poor. In particular, the living space (6 m², including the toilet area) was insufficient. Further, access to natural light had not been improved, and the prisoners continued to be deprived of any outside view (as the windows faced a wall).

67. What is worse, both prisoners had been continuously held in solitary confinement for already 13 years, without being offered any out-of-cell activity other than outdoor exercise for one hour per day[33] (taken alone on the top floor of the prison building). The two prisoners had been allowed to meet once in August 2011, no further association having taken place ever since. In addition, contacts with staff and the outside world remained very limited. The last visit was received by both prisoners in April 2012.

In the reports on the 2010 periodic and 2011 ad hoc visits, the CPT already emphasised that the conditions under which the above-mentioned prisoners were being held could be considered as amounting to inhuman and/or degrading treatment.

68. The CPT's concerns regarding both prisoners are all the greater given that neither of them was being provided with adequate psychiatric treatment (the last psychiatric consultation having taken place on 5 September 2012; i.e. seven months prior to the CPT's visit), even though they both suffered from severe mental disorders.

69. In the report on the 2011 visit[34], the Committee stressed that in particular prisoner B required continuous psychiatric supervision and treatment which can only be provided in a hospital setting. Further, it was pointed out that prisoner A was in need of regular psychiatric follow-up and that the highly restrictive regime applied to the two prisoners entailed a clear risk of further deterioration of the state of mental health.

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33 It is recalled that, after the 2010 visit, both prisoners were provided with a television set.

34 See paragraph 21 and 22 of CPT (2012) 23.

70. By letter of 9 July 2013, the Committee once again called upon the Armenian authorities (a) to take urgent and effective steps to remedy the unacceptable situation of prisoners A and B, in the light of the recommendations made in previous reports, and (b) to take immediate action to end their solitary confinement and to provide them with adequate psychiatric treatment, following a comprehensive review of their mental health.

71. In reply, the Armenian authorities provided the following information (by letter dated 30 September 2013):

> "The relevant psychiatric care and therapeutic measures for A and B convicts are carried out regularly and in due order.
>
> Transferring the B convict to a medical institution of a relevant type may be implemented only based on the medical opinion of a relevant specialist. Measures will be taken in order to receive a specialist opinion.
>
> The size of the living space of the cells of A and B convicts is larger than the minimum size of the living space per one person specified by the Penitentiary Code of the Republic of Armenia and the Order of the Minister of Justice of the Republic of Armenia No 30-N of 28 February 2012. The living conditions in the above mentioned cells are sufficient and the water taps are repaired."

72. Whilst acknowledging the measures taken thus far by the Armenian authorities, **the CPT calls upon the Armenian authorities to take immediate steps to:**

- **put an end to the solitary confinement of prisoners A and B;**
- **conduct a comprehensive review of the state of mental health of both prisoners (preferably in a hospital setting);**
- **transfer prisoner B to an appropriate hospital-type facility;**
- **provide both prisoners with adequate psychiatric treatment, including (in addition to regular psychiatric consultations and uninterrupted pharmacotherapy) a range of therapeutic activities such as occupational therapy.**

Further, **the Committee would like to receive a detailed account of all psychiatric consultations and the psychiatric treatment received by both prisoners since April 2013, as well as copies of the reports drawn up by the psychiatrist following the above-mentioned comprehensive review.**

Finally, **as regards the minimum living space per prisoner, the Committee wishes to stress that the existing standard of 4 m² should apply only to multi-occupancy cells. In addition, any space taken up by in-cell sanitary facilities/toilets should not be included in this calculation. Cells measuring a mere 6 m² are by virtue of their size not suitable as prisoner accommodation for prolonged periods.**

73. Already during the 2011 visit, the CPT was informed that a new prison (with an official capacity of 1,200 places) was about to be constructed in Armavir (near Yerevan) and that its opening would allow Kentron Prison and, progressively, the entire Nubarashen Prison (including the establishment's unit for life-sentenced prisoners) to be closed. In their letter of 30 September 2013, the Armenian authorities indicated that the first detention block (with a capacity of 400 places) would be operational in 2014.

In this regard, the CPT wishes to stress once again that life-sentenced prisoners are not necessarily more dangerous than other prisoners and should thus not be segregated from other prisoners as an automatic result of the type of sentence imposed (principle of non-segregation). Further, the provision of a regime of purposeful activities (including group association) and constructive staff/inmate relations will, in time, reinforce security within the prison ("dynamic security") and also increase the possibilities for these prisoners to be successfully resettled in society and to lead a law-abiding life following their release[35].

The CPT once again calls upon the Armenian authorities to review the relevant legislation in the light of the above-mentioned precepts and to take these precepts into account in the construction of Armavir Prison.

Further, **the Committee would like to receive updated information on the construction of Armavir Prison and the transfer of life-sentenced prisoners to the establishment.**

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[35] See the Committee of Minister's Recommendation Rec (2003) 23 on the management by prison administrations of life sentence and other long-term prisoners.

APPENDIX I

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

Co-operation

comments

- the CPT trusts that the Armenian authorities will take appropriate steps to ensure that no actions by staff to intimidate prisoners, as described in paragraph 7, are encountered during future visits (paragraph 7).

Law enforcement agencies

Preliminary remarks

requests for information

- updated information on the elaboration of a new Code of Criminal Procedure (CCP) as well as a copy of the CCP once it has been adopted by Parliament (paragraph 10).

Ill-treatment

recommendations

- the Armenian authorities to deliver to all police officers a strong message, emanating from the highest political level, that any form of physical ill-treatment of detained persons constitutes a criminal offence and will be punished accordingly (paragraph 17);

- greater emphasis to be given to modern, scientific methods of crime investigation, including through appropriate training of police officers, so as to reduce the reliance on confessions to elucidate crimes (paragraph 17).

Recording of injuries and allegations

recommendations

- the Armenian authorities to take immediate steps to ensure that, in all police and prison establishments in Armenia, medical examinations of detained persons are always conducted out of the hearing and – unless the health-care staff concerned request otherwise in a particular case – out of the sight of police/prison officers (paragraph 20);

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

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

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

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

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

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

  - the procedure described above is also followed whenever a prisoner sustains a traumatic lesion while in prison
    (paragraph 25);

- steps to be taken by the relevant authorities to ensure that, whenever traumatic lesions are recorded by a health-care professional which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of an allegation, are indicative of ill-treatment), the record is immediately and systematically forwarded to the competent prosecutor, regardless of the wishes of the person concerned (paragraph 25);

- steps to be taken at Yerevan-Nubarashen Prison as well as in other prisons in Armenia, to ensure that a medical examination is also carried out in respect of prisoners taken back to the prison by the police, after having participated in investigative activities (paragraph 26);

- the medical screening of newly-admitted detained persons at the Detention Centre of the Yerevan City Police Department to be performed by health-care staff who are independent of the police (paragraph 29);

- the task of recording any injuries displayed by detained persons on admission to a police detention facility to be carried out by a health-care professional, if necessary, by having recourse to the emergency services (paragraph 30);

- the Armenian authorities to take the necessary steps to ensure that in all police detention centres in Armenia, the record drawn up by a health-care professional in a police establishment after a medical examination of a detained person contains the information set out in paragraph 25 (fourth indent) (paragraph 31);

- steps to be taken to ensure that:

  - a form containing distinct sections for the detainee's statements, the health-care professional's objective medical findings and the health-care professional's observations in the light of these two elements is introduced in all police establishments in Armenia;

  - in the context of the admission procedure, detained persons are no longer required to give a statement to a police officer regarding the origin of injuries sustained;

  - whenever injuries are recorded by a health-care professional which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of an allegation, are indicative of ill-treatment), the record is immediately and systematically forwarded to the competent prosecutor, regardless of the wishes of the person concerned

(paragraph 31).

comments

- the CPT encourages the Armenian authorities to take the necessary measures to extend the practice of conducting a systematic medical screening of newly-admitted detained persons to all police detention centres in Armenia (paragraph 31).

Reporting of injuries and action taken by prosecutors and the Special Investigation Service (SIS)

recommendations

- steps to be taken by all relevant authorities to review the current system of handling cases involving possible ill-treatment by police officers, in the light of the remarks made in paragraphs 50 to 53. More specifically, steps should be taken to ensure that:

  - the SIS is significantly reinforced in terms of staff, in particular, for the purpose of carrying out operational tasks in the context of criminal investigations, thereby removing the need to rely on local police officers;

  - increased emphasis is placed on the structural independence of the SIS and the existence of transparent procedures in order to enhance public confidence and that persons alleging ill-treatment have direct and confidential access to the SIS;

  - all SIS officers are reminded of their obligation to carry out investigations in a thorough and comprehensive manner, having regard to the remarks made by the CPT in its 14th General Report (CPT/Inf (2004) 28; in particular, paragraphs 32 to 36);

  - police officers who are affiliated to the implicated police establishment are no longer involved in (preliminary) criminal investigations regarding potential cases of police ill-treatment;

- all formal complaints about police ill-treatment as well as all cases in which detained persons have made an allegation of ill-treatment and are found to bear injuries consistent with that allegation, are promptly forwarded to and processed by the SIS;

- whenever a detained person displays injuries indicative of ill-treatment or makes allegations of ill-treatment, he or she is promptly seen by a doctor with recognised forensic training;

- all prosecutors responsible for the supervision of prisons and police establishments are instructed by the Prosecutor General to play a more proactive role in detecting cases of possible police ill-treatment and to draw up a written record whenever they interview a detained person;

- the Prosecutor General further improves the flow of information between the different (regional and supervising) prosecutors, exercises an effective control over them and guarantees that criminal investigations into allegations of police ill-treatment are carried out in an effective manner

(paragraph 54).

requests for information

- the following information, in respect of the period from 1 January 2011 to the present time:

  (a) the total number of complaints of ill-treatment lodged by detained persons against police officers;

  (b) the number of criminal/disciplinary proceedings which have been instituted as a result of complaints about police ill-treatment;

  (c) the number of criminal/disciplinary proceedings which have been instituted *ex officio* (i.e. without a formal complaint) into possible police ill-treatment;

  (d) the outcome of the proceedings referred to in (b) and (c), including an account of criminal/disciplinary sanctions imposed on police officers

(paragraph 48).

Fundamental safeguards against police ill-treatment

recommendations

- the Armenian authorities to take all the necessary steps to ensure that:

  - the legal requirement to draw up a protocol of detention within three hours is strictly complied with in practice and that the procedures of "inviting a person to a police establishment" or of summoning witnesses to an interview are not exploited by operational police officers to circumvent the legal time-limits and safeguards in respect of the police custody of criminal suspects;

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

- the right of notification of custody is rendered fully effective in practice with respect to all persons deprived of their liberty by the police, as from the very outset of their deprivation of liberty;

- the right of access to a lawyer is enjoyed by all persons obliged to remain with the police, as from the very outset of their deprivation of liberty;

- all persons detained by the police – for whatever reason – are fully informed of their above-mentioned fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information at the moment of apprehension, to be supplemented at the earliest opportunity (that is, immediately upon the detained person's first entry into police premises) by the provision of a written form setting out his/her rights in a straightforward manner. The form should be available in an appropriate range of languages. Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case

(paragraph 59);

- the Armenian authorities to take the necessary steps to ensure that any detained person, as well as anyone who has been detained and subsequently released, is entitled on his/her own initiative to obtain a forensic medical examination without prior authorisation from an investigator, prosecutor or judge (paragraph 60);

- a practice of taking photographs of injuries in the context of forensic medical examinations to be introduced, in accordance with established international standards (cf. paragraph 106 of the "Istanbul Protocol"[36]) (paragraph 61);

- the Armenian authorities to take immediate steps to ensure that forensic medical examinations are always conducted out of the hearing and – unless the health-care staff concerned request otherwise in a particular case – out of the sight of police/prison officers (paragraph 61).

comments

- the CPT encourages the Armenian authorities to take the necessary steps to ensure that interviews of detained persons with police officers are systematically audio- and/or video-recorded. Further, a copy of the electronic recording should be made available to the detained person and/or his/her lawyer (paragraph 62).

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36 "Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment".

Situation of life-sentenced prisoners at Yerevan-Kentron Prison

recommendations

- the Armenian authorities to take the necessary steps to ensure that the relevant legislation is amended with a view to bringing the visit entitlement of life-sentenced prisoners on a par with that of other sentenced prisoners (paragraph 64);

- the Armenian authorities to take steps to ensure that prisoner C at Kentron Prison is offered a range of purposeful out-of-cell activities (including sports). Further, steps should be taken to provide the prisoner concerned with appropriate human contact (paragraph 65);

- the Armenian authorities to take immediate steps to:

  - put an end to the solitary confinement of prisoners A and B;

  - conduct a comprehensive review of the state of mental health of both prisoners (preferably in a hospital setting);

  - transfer prisoner B to an appropriate hospital-type facility;

  - provide both prisoners with adequate psychiatric treatment, including (in addition to regular psychiatric consultations and uninterrupted pharmacotherapy) a range of therapeutic activities such as occupational therapy

  (paragraph 72);

- the Armenian authorities to review the relevant legislation in the light of the precepts set out in paragraph 73 and to take these precepts into account in the construction of Armavir Prison (paragraph 73).

comments

- as regards the minimum living space per prisoner, the CPT wishes to stress that the existing standard of 4 m² should apply only to multi-occupancy cells. In addition, any space taken up by in-cell sanitary facilities/toilets should not be included in this calculation. Cells measuring a mere 6 m² are by virtue of their size not suitable as prisoner accommodation for prolonged periods (paragraph 72).

requests for information

- a detailed account of all psychiatric consultations and the psychiatric treatment received by prisoners A and B since April 2013, as well as copies of the reports drawn up by the psychiatrist following the recommended comprehensive review of the state of mental health of both prisoners (paragraph 72);

- updated information on the construction of Armavir Prison and the transfer of life-sentenced prisoners to the establishment (paragraph 73).

APPENDIX II

LIST OF THE GOVERNMENTAL AND OTHER AUTHORITIES AND NON-GOVERNMENTAL ORGANISATIONS WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS

A. GOVERNMENTAL AUTHORITIES

Ministry of Justice

Mr Hrair TOVMASYAN	Minister of Justice
Mr Yeghishe KIRAKOSYAN	Deputy Minister of Justice
Mr Aram ORBELYAN	Deputy Minister of Justice
Ms Narine SOLOMONYAN	Acting Head of the International Legal Relations Department

Police Service

Mr Vladimir GASPARYAN	Head of the Police Service
Mr Vardan YEGHIAZARYAN	Head of the Staff of the Police Service
Mr Armen HAKOBYAN	Head of the Internal Security Department

B. OTHER AUTHORITIES

Prosecutor General's Office

Mr Aghvan HOVSEPYAN	Prosecutor General
Mr Arman TAMAZYAN	Deputy Prosecutor General
Mr Gevorg KOSTANYAN	Deputy Prosecutor General and Military Prosecutor
Mr Vardan AVETISYAN	Head of Department for Supervision of Implementation of Criminal Sanctions
Ms Nelly HARUTIUNYAN	Head of the International-Legal Relations Department
Ms Sona TRUZYAN	Adviser to the Prosecutor General

Special Investigation Service (SIS)

Mr Andranik MIRZOYAN	Head of the SIS
Mr Armen NADIRYAN	Deputy Head of the SIS

Office of the Human Rights Defender

Ms Ani NERSISYAN and other members of the National Preventive Mechanism (NPM)

National Forensic Medical Service

Mr Mher BISHARYAN Director

Public Defenders' Office

Mr Masis GHAZANCHYAN Head of the Public Defenders' Office

C. NON- GOVERNMENTAL ORGANISATIONS

Public Monitoring Group on the observance of prisoners' rights

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

Civil Society Institute

Helsinki Association for Human Rights

Helsinki Citizen's Assembly-Vanadzor

Helsinki Committee of Armenia

APPENDIX III

PHOTOGRAPHS OF THE GAS MASK
FOUND AT YEREVAN-ARABKIR POLICE DIVISION
(see paragraph 13 of the report)

Gas mask with linen bag and leather belt

Gas mask and the linen bag with reddish-brown stains

Location where the linen bag and gas mask were found