



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Committee against Torture**

**Consideration of reports submitted by States  
parties under article 19 of the Convention**

**Third periodic report of States parties due in 2002**

**Armenia\* \*\***

[22 December 2009]

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\* The second periodic report submitted by the Government of Armenia is contained in document CAT/C/43/Add.3; it was considered by the Committee as its 440th, 443rd and 447th meetings, on 14, 15 and 17 November 2000 (CAT/C/SR.440, 443 and 447). For its consideration, see A/56/44, paras. 33–39.

\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

## Contents

<i>Chapter</i>	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–11	3
II. Information on measures taken in relation to the implementation of articles 1 to 16 of the Convention and on further developments .....	12–172	5
Articles 1 and 2 .....	12–26	5
Article 3 .....	27–29	7
Article 4 .....	30–42	8
Article 5 .....	43–47	9
Article 6 .....	48–58	10
Articles 7 and 12 .....	59–66	12
Article 8 .....	67–73	13
Article 9 .....	74–80	14
Article 10 .....	81–91	16
Article 11 .....	92–135	18
Article 13 .....	136–140	26
Article 14 .....	141–149	27
Article 15 .....	150–157	28
Article 16 .....	158–172	29
III. Additional information on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment .....	173–215	31
A. The national mechanism provided for in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.....	173–176	31
B. Public monitoring groups .....	177–199	32
C. Specifics of detaining female convicts in penitentiary establishments, and their total number as of March 2009.....	200–213	34
D. Judgements of the European Court on violations of article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms .....	214–215	36
IV. Information on the measures undertaken for the implementation of the conclusions and recommendations of the Committee against Torture on the second periodic report of the Republic of Armenia .....	216–251	36

## I. Introduction

1. This report is submitted as the third periodic report, in accordance with article 19 (1) of the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The report provides information on measures taken in the period extending from 2001 to 2009 in relation to the implementation of the provisions of the Convention.

2. The report has been elaborated in accordance with the procedure approved by the Decision of the Government of the Republic of Armenia No. 1483-N of 23 November 2007.

3. Pursuant to the procedure mentioned above and for the purpose of preparing the report, an inter-agency working group was established upon the Decision of the Prime Minister of the Republic of Armenia No. 320-A of 21 April 2009, which included representatives from the following bodies:

- Ministry of Foreign Affairs of the Republic of Armenia
- Ministry of Labour and Social Affairs of the Republic of Armenia
- Ministry of Health of the Republic of Armenia
- Ministry of Justice of the Republic of Armenia
- Ministry of Education and Science of the Republic of Armenia
- Ministry of Defence of the Republic of Armenia
- Ministry of Sport and Youth Affairs of the Republic of Armenia
- Ministry of Territorial Administration of the Republic of Armenia
- National Security Service of the Republic of Armenia
- Police of the Republic of Armenia
- General Prosecutor's Office of the Republic of Armenia
- Staff to the President of the Republic of Armenia
- National Assembly of the Republic of Armenia
- Judicial Department of the Republic of Armenia
- Staff of the Human Rights Defender of the Republic of Armenia

The working group has cooperated with non-governmental organisations in elaborating the report.

4. The report has been approved by the Government of the Republic of Armenia.

5. In accordance with the General Guidelines (CAT/C/14/Rev.1) of the Committee against Torture, the report covers only the measures and developments which have taken place since the submission of the previous report, article by article (Part II), as well as additional information on the implementation of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Part III), and information on measures taken to comply with the Committee's conclusions and recommendations regarding the second periodic report of the Republic of Armenia (Part IV).

6. During the reporting period, extensive measures have been carried out in Armenia to bring the protection of the human rights in line with the international standards, tens of

international human rights treaties have been ratified, and the legislation of the Republic of Armenia has been improved.

7. The amendments to the Constitution of the Republic of Armenia were adopted through a national referendum on 27 November 2005. Article 3 of the Constitution states that the human being and the dignity, fundamental rights and freedoms thereof are ultimate values. The state ensures the protection of fundamental human and civil rights and freedoms in conformity with the principles and norms of the international law. The state is bound by fundamental human and civil rights and freedoms as a directly applicable rights. The right to freedom is closely related to inviolability — i.e. to the human security and freedom guaranteed by the state — which excludes any offence against the person, honour and dignity of a human being. Therefore, pursuant to article 14 of the Constitution, “human dignity shall be respected and protected by the state as an inseparable foundation of human rights and freedoms.”

8. The state ensures the protection of human rights and freedoms through legislative body, by establishing a national legal system. It is worth mentioning that the amended Constitution of the Republic of Armenia has also adhered to the direct transposition of international treaty provisions into the national legislation. Thus, pursuant to the constitutional provision, international treaties ratified by the Republic of Armenia are a constituent part of the legal system of the Republic of Armenia and prevail over the national laws. Therefore, pursuant to the relevant provision of article 6 of the Constitution, where contradiction exists between norms prescribed by ratified international treaties and norms prescribed by national laws, the provisions of the treaty apply.

9. In the reporting period, the Republic of Armenia has ratified fundamental international human rights treaties such as the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of 2002, the Council of Europe European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 and its Protocols (1–8, 11, 12, 14), the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 1987 and its two protocols, etc.

10. The Council of Europe European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its two protocols entered into force for the Republic of Armenia on 1 October 2002. Pursuant to the relevant articles of the Convention, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Committee for the Prevention of Torture – CPT) regularly submits reports, in relation to which the Government of the Republic of Armenia submits and publishes its observations as well. After acceding to the Convention and the Protocols thereto, the CPT has submitted four reports, and the Government of the Republic of Armenia has also correspondingly submitted its responses thereon. The last CPT report has been submitted as a result of the extraordinary visit of the delegation to the Republic of Armenia on 15–17 March 2008. The Government of the Republic of Armenia has submitted its comments and observations on the latter as well.

11. In 1998, upon the Decree of the President of the Republic of Armenia, Commission on Human Rights Issues adjunct to the President of the Republic of Armenia was established, which had a status of an advisory body, composed of the representatives from non-governmental human rights organisations. The Law of the Republic of Armenia on the Human Rights Defender was adopted on 21 October 2003, after which, upon the Decree of the President of the Republic of Armenia, Larisa Alaverdyan — human rights advocate, member of the Commission on Human Rights Issues adjunct to the President of the Republic of Armenia, chairperson of “Against Legal Arbitrariness” non-governmental organisation — was appointed as the Human Rights Defender of the Republic of Armenia on 19 February 2004, and assumed her duties on 1 March 2004. The transitional provision

of the Law envisaged that the powers of the first Defender shall terminate on the 30th day following the entry into force of the Amendments to the Constitution. After the adoption of the Amendments to the Constitution of the Republic of Armenia in 2005, pursuant to article 83.1 of the new Constitution, Armen Haroutyunyan was elected by the National Assembly as the Human Rights Defender of the Republic of Armenia on 17 February 2006.

## **II. Information on measures taken in relation to the implementation of articles 1 to 16 of the Convention and on further developments**

### **Articles 1 and 2**

12. Article 17 of the Constitution of the Republic of Armenia clearly prescribes that “no one shall be subjected to torture or inhuman or degrading treatment or punishment. All persons arrested, detained or deprived of liberty shall have the right to be treated with humanity and with respect for dignity”.

13. The new Criminal Code of the Republic of Armenia was adopted on 18 April 2003. In accordance with internationally accepted principles and values, the Criminal Code is based on the principles of legality, equality before the law, inevitable liability, fault-based liability, justice and humanity. Thus, article 11 of the Criminal Code prescribes that the Criminal Code of the Republic of Armenia serves to provide for physical, mental, material, ecological, and other human security, and that no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.

14. Moreover, based on the commitments under the Convention, article 119 of the Criminal Code of the Republic of Armenia qualifies torture as a criminal offence and prescribes a relevant punishment therefor. Pursuant to the mentioned article, torture is any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person. Such act shall be punished by imprisonment for a maximum term of three years, and in case of aggravated circumstances, by imprisonment for a term of three to seven years.

15. Pursuant to article 5 of the Law of the Republic of Armenia on the Police adopted in 2001, “Subjection of a human being to torture, cruel or degrading treatment, or use of violence against him/her by a police officer shall be prohibited and shall give rise to liability in accordance with the law.”

16. Exclusive powers are vested in prosecution authorities by the Constitution of the Republic of Armenia (art. 103) with regard to exercising control over the legality of inquest and preliminary investigation and of the application of punishments and other compulsory measures. The Law of the Republic of Armenia on Prosecutor’s Office entered into force on 1 May 2007. This Law regulates the issues related to the control over the legality of inquest and preliminary investigation, of the application of punishments and other compulsory measures.

17. Pursuant to article 29 of the Law of the Republic of Armenia on Prosecutor’s Office, punishment means the forms of punishment provided for by criminal statute (fine, confiscation of property, detention, imprisonment, etc.). And other compulsory measure means deprivation of liberty in cases provided for by points 2 to 7 of part 1 of article 16 of the Constitution of the Republic of Armenia, as well as the use of physical force, firearms or special means by special services.

18. Pursuant to article 29 of the Law of the Republic of Armenia on the Prosecutor's Office, when exercising control over the legality of the application of punishments and other compulsory measures, the prosecutor is entitled to:

(a) Visit all the places where people deprived of liberty are held, without any restrictions and at any time;

(b) Familiarise him/herself with the documents, on the basis of which the person has been subjected to a sentence or other compulsory measures;

(c) Check the conformity with the legislation in force of orders, instructions, and decisions of the administration of bodies enforcing sentences and other compulsory measures, which concern the fundamental rights of the person subjected to a sentence or other compulsory measures. When discovering an act that contradicts the legislation, the prosecutor files a motion to revise it; when the prosecutor considers that a delay may lead to grave consequences, the prosecutor is entitled to suspend the validity of the act and to file a motion to revise it;

(d) Question persons subjected to a sentence or other compulsory measures;

(e) Release immediately persons kept illegally in places of deprivation of liberty and in penal and disciplinary isolators of such places, and, if a person was deprived of liberty on the basis of a legal act of the administration of the place of deprivation of liberty, then the person that adopted such an act is obliged, upon the prosecutor's instruction, to immediately annul the act;

(f) In case of doubt that the rights and freedoms of persons subjected to a sentence or to other compulsory measures have been violated, to demand explanations from officials on actions taken by them or on their inaction.

19. The Criminal Procedure Code of the Republic of Armenia also outlaws subjecting a person to degrading treatment, to torture, as well as keeping in humiliating conditions in the course of criminal proceedings (see paragraphs 17–18 of the previous report, CAT/C/43/Add.3).

20. Pursuant to the Penitentiary Code of the Republic of Armenia, the execution of a sentence, as well as imposition of compulsory medical measures combined with execution of the sentence, must not be accompanied by physical violence against a person, as well as by actions which can lead to socio-psychological degradation of a person. No person, deprived of liberty upon a judgment, shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. No circumstance may serve as a ground for justifying torture or other cruel, inhuman or degrading treatment or punishment.

21. Pursuant to article 2 of the Law of the Republic of Armenia on the Custody of Arrestees and Remand Prisoners adopted on 26 February 2002, an arrestee or a remand prisoner shall be respectively kept under arrest or remand detention based on the principles of legality, equality before the law of arrestees and remand prisoners, humanity, respect for individual rights, freedoms and dignity, in accordance with the Constitution of the Republic of Armenia, the Criminal Code of the Republic of Armenia and the Criminal Procedure Code of the Republic of Armenia, as well as generally recognised principles and norms of international law. It is prohibited to exercise physical violence, as well as carry out inhuman or degrading actions against an arrestee or a remand prisoner.

22. It is prescribed by article 43 of the Constitution of the Republic of Armenia that certain fundamental human and civil rights and freedoms (enshrined in articles 23–25, 27, 28–30, 30.1, and the third part of article 32) may be limited by law, when it is necessary for the protection of national security and public order, prevention of crimes, in the interests of health and morals of the public, for the protection of constitutional rights and freedoms,

honour and good reputation of others in a democratic society. However, it is enshrined by the same article that limitations of fundamental human and civil rights and freedoms may not exceed the scope defined by international commitments of the Republic of Armenia.

23. Special categories of fundamental human and civil rights and freedoms may be temporarily limited in the manner prescribed by law in emergency situations in case of martial law or state of emergency only within the scope of the assumed international commitments with regard to derogation from commitments. Even in this case, the rights prescribed by articles 15, 1722 and 42 shall be an exception from the mentioned rights and freedoms. In particular, the mentioned articles enshrine the prohibition of death penalty, the right not to be subjected to torture (art. 17), the right to effective legal remedies before judicial as well as other state authorities, to the restoration of violated rights, to a public hearing of his/her case by an independent and impartial court within a reasonable timeframe, to legal assistance, to a counsel, and to perform any action not proscribed by law.

24. It follows from the above-said that irrespective of the martial law or state of emergency, even in case of the application of the mentioned articles of the Constitution in force, the Republic of Armenia may not breach the commitments assumed under international treaties, in this case, under the Convention.

25. As to the justification of torture committed upon an order or instruction from a superior officer or a public authority, it is prescribed by article 47 of the Criminal Code of the Republic of Armenia that the person issuing an unlawful order or instruction shall bear liability for inflicting damage to the interests protected by criminal statute, and the person committing a criminal offence intentionally upon an obviously unlawful order or instruction shall bear liability on general basis.

26. In addition, the abuse and excess of official powers by an official, as established by articles 308 and 309 of the Criminal Code of the Republic of Armenia, are also deemed as criminal offence and are punishable by up to four years of imprisonment depending on the type of offence.

### **Article 3**

27. The provisions provided for in the draft of the new Criminal Code of the Republic of Armenia, indicated in the second periodic report of the Republic of Armenia (CAT/C/43/Add.3), have been fully incorporated in the Criminal Code of the Republic of Armenia adopted by the National Assembly of the Republic of Armenia on 18 April 2003. It is worth mentioning only that the provisions enshrined in the articles on the extradition of persons having committed a criminal offence have been incorporated in article 16 of the said Criminal Code. In particular, it is envisaged that persons shall not be extradited to a foreign state, where there are substantial reasons to believe that extradition has been requested for inquest or application of a punishment on the grounds of race, religion, belonging to a national or a certain social group, or political views. No one shall be extradited to a foreign state where he/she may be in a serious danger of being subjected to torture or inhuman or degrading treatment or punishment. Where, under the laws of the state requesting extradition of persons having committed a criminal offence, such offence is punishable by death penalty, the extradition of such persons may be refused unless the requesting party gives sufficient assurances that death penalty will not be executed.

28. Chapter 54 of the Criminal Procedure Code of the Republic of Armenia completely regulates the procedure for and the terms of the provision of legal assistance in criminal matters and extradition of persons having committed a crime to a foreign state in accordance with international treaties, as well as determines the bodies competent to issue

an extradition warrant or a decision on refusing the extradition. Thus, pursuant to article 479 (2) of the Criminal Procedure Code of the Republic of Armenia, the competent authority issuing an extradition warrant or a decision on refusing the extradition shall notify about the adopted decision to the person regarding whom the decision was adopted and explicate his/her right to appeal against such decision. The mentioned provision allows for additional verification of whether there are grounds for possible subjection of a person to torture or degrading treatment in the state concerned.

29. Pursuant to part 4 of article 19 of the former Law of the Republic of Armenia on Refugees, no refugee could be expelled or returned to the territory of a state, where his/her life or freedoms were endangered on the grounds of belonging to racial, national, religious, or a certain social group, or for political views. article 9 of the Law of the Republic of Armenia on Refugees and Asylum adopted on 27 November 2008 refers to the principle of non-refoulement, pursuant to which a refugee should not in any way be returned to the territories where his/her life or freedom may be endangered based on belonging to racial, religious, national, or a certain social group or based on political views or as a result of wide-spread violence, external attacks, internal conflicts, mass violations of human rights or other serious events violating public order. It is also envisaged that a foreign national or a stateless person may not be expelled, returned or extradited to another country where due to substantial reasons there is jeopardy that he/she will be subjected to cruel and inhuman or degrading treatment or punishment, including torture.

#### **Article 4**

30. Title 7 (Crimes against Individuals) of the Criminal Code of the Republic of Armenia covers crimes against life and health, among which are also battery and torture.

31. Pursuant to article 118 of the Criminal Code, battery or commitment of other violent acts shall be punishable by a fine in the maximum amount of 100-fold of the minimum salary or by detention for a maximum term of two months.

32. Pursuant to article 119 of the Criminal Code, torture is any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person. The mentioned act is punishable by imprisonment for a maximum term of three years.

33. The same acts are punishable by imprisonment for a term of three to seven years when committed: (a) against two or more persons; (b) against a person or a close relative thereof in connection with the performance of official activity or public duty of the person; (c) against a minor or a person who is materially or otherwise dependent on the criminal, as well as against a person who was kidnapped or taken as a hostage; (d) against an obviously pregnant woman; (e) by a group of persons or an organised group; (f) with particular brutality; (g) on the ground of national, racial or religious hatred or fanaticism.

34. Under article 7 of the Criminal Code, every person having committed a criminal offence shall be subjected to a sentence or other criminal law measures provided for by the Criminal Code of the Republic of Armenia, and article 14 (1) prescribes that a person who has committed a criminal offence within the territory of the Republic of Armenia shall be subjected to liability under the Criminal Code of the Republic of Armenia.

35. As to an attempt to commit torture, complicity or participation therein, completed and unfinished crimes are defined by article 33 of the Criminal Code of the Republic of Armenia. Pursuant to the mentioned article, completed crime shall be deemed as an act that contains all the elements of crime provided for by this Code, and an unfinished crime shall be deemed as a criminal attempt, as well as preparation for grave or particularly grave crimes.



36. Pursuant to article 34 of the Criminal Code, a criminal attempt shall be deemed as an act (inaction) committed by direct intention, which is immediately directed to the committing of a criminal offence, where the crime has not been finished due to circumstances beyond the person's control.

37. Liability for the preparation of a crime and the criminal attempt, as well as for the completed crime is defined by the same article of the Special Part of the Criminal Code of the Republic of Armenia.

38. Under article 38 of the Criminal Code, the organiser, abettor and aider shall be considered as accomplices to the perpetrator. In particular, an abettor shall be considered as the person who abetted another person to the commission of crime through persuasion, material interest, threat or other means; an aider shall be considered as the person who has assisted in the commission of a crime by providing advice, instructions, information or means and instruments or by eliminating the obstacles, as well as the person who has promised in advance to conceal the criminal, the means and instruments of crime, traces of crime or illegally obtained items, as well as the person who has promised in advance to acquire or sell such items. Moreover, the co-perpetrators (abettor, aider) shall be subject to liability for the crime under the same article of the Criminal Code.

39. Article 336 of the new Criminal Code of the Republic of Armenia defines liability for subjecting an obviously innocent person to criminal liability and envisages a sentence in the form of imprisonment for a maximum term of 10 years.

40. The legislation, particularly article 341 of the Criminal Code of the Republic of Armenia, defines liability for criminally punishable acts, such as extorting testimonies from the witness, the suspect, the defendant or the victim or coercing the expert to give false opinion, or the interpreter to do incorrect interpretation through threat or other unlawful acts by the judge, the prosecutor, the investigator or the person conducting inquest. The same act combined with derision, torture or other forms of violence against a person shall be punishable by imprisonment for a term of three to eight years with deprivation of the right to hold certain positions or carry out certain activities for a maximum term of three years, or without such deprivation.

41. Pursuant to article 348 of the Criminal Code of the Republic of Armenia, criminal liability shall also be defined for an obviously unlawful arrest, remand detention or an obviously unlawful custody. Pursuant to part 3 of the same article, the mentioned acts that have by negligence caused grave consequences, shall be punishable by imprisonment for a term of three to eight years with deprivation of the right to hold certain positions or carry out certain activities for a maximum term of three years.

42. Article 352 of the Criminal Code of the Republic of Armenia defines liability for judges for adopting obviously unjust judgment or other judicial act from mercenary or other personal motives. The same act that has intentionally caused grave consequences shall be punishable by imprisonment for a term of three to seven years with deprivation of the right to hold certain positions or carry out certain activities for a maximum term of three years.

## Article 5

43. In addition to the information covered in paragraphs 46–49 of the second periodic report of the Republic of Armenia, it is deemed necessary to include articles 14 and 15 of the Criminal Code of the Republic of Armenia, which define the effect of the criminal statute with regard to persons commission a criminal offence within and beyond the territory of the Republic of Armenia.

44. Thus, pursuant to article 14 of the Criminal Code of the Republic of Armenia, a person who has committed a criminal offence within the territory of the Republic of Armenia shall be subject to liability under the Criminal Code of the Republic of Armenia. A criminal offence shall be considered as committed within the territory of the Republic of Armenia, if it has started, continued or has been completed within the territory of the Republic of Armenia, or has been committed in complicity with persons that have carried out criminal activity in the territory of another state.

45. In cases when a person commits a criminal offence within the territory of the Republic of Armenia and of other states, his/her liability shall ensue under the Criminal Code of the Republic of Armenia, if the person has been subjected to criminal liability in the territory of the Republic of Armenia, unless otherwise provided for by the international treaties of the Republic of Armenia.

46. A person who has committed a criminal offence on board a ship or an aircraft in flight or another air device that bear the flag and the distinctive emblem of the Republic of Armenia, regardless of its location, shall be subject to criminal liability under the Criminal Code of the Republic of Armenia, unless otherwise provided for by the international treaties of the Republic of Armenia. The person who has committed a criminal offence on board a military ship or an aircraft of the Republic of Armenia, regardless of its location, shall also bear liability under the Criminal Code of the Republic of Armenia.

47. As for the nationals of the Republic of Armenia, as well as stateless persons permanently residing in the Republic of Armenia, who have committed a criminal offence beyond the territory of the Republic of Armenia, they shall be subject to criminal liability under the Criminal Code of the Republic of Armenia, when the act committed by them has been recognised as a crime pursuant to the legislation of the state where it has been committed, and if they have not been convicted for the same crime in another state. When convicting the mentioned persons, the sentence may not exceed the highest threshold of the sentence envisaged by law of the foreign state in the territory of which the criminal offence has been committed.

## **Article 6**

48. It is noteworthy that with a view to complying with the requirements of the Convention, a number of amendments have been made to the legislation of the Republic of Armenia to reduce the risk of exposure to torture or other cruel treatment in the Republic of Armenia.

49. Article 16 of the Constitution of the Republic of Armenia prescribes that a person may be deprived of liberty in cases and in the manner prescribed by law. The law may envisage deprivation of liberty only in the following cases:

- (a) The person has been convicted by a competent court for committing a crime;
- (b) The person has not complied with a court order that has entered into legal force;
- (c) To ensure the performance of certain duties prescribed by law;
- (d) There is a reasonable doubt that a criminal offence has been committed, or when it is necessary to prevent the commission of a criminal offence by a person or to prevent his/her absconding after the committal thereof;
- (e) To place a minor under educational supervision or bring him/her before another competent authority;

(f) To prevent spread of infectious diseases or public danger emanating from persons with mental illnesses, alcoholics, drug addicts or vagrants;

(g) To prevent unauthorised entry of a person into the Republic of Armenia, to expel or extradite him/her to another country.

50. Each person deprived of liberty shall be informed immediately about the reasons thereof in a language comprehensible for him/her, and in case a criminal charge is brought against, of the charges as well. Each person deprived of liberty shall have the right to inform immediately thereon the person of his/her own choosing. If the arrested person is not put under remand detention upon a court decision within 72 hours from the time of the arrest, he/she shall be released immediately.

51. Article 11 (3) of the Criminal Procedure Code of the Republic of Armenia was amended by law HO-263 adopted by the National Assembly on 4 December 2001, pursuant to which remand detention, keeping in custody, forcible placement of a person in medical or correction institution shall only be authorised upon a court decision. A person may not be kept in custody for more than 72 hours unless a relevant decision is issued by the court. The same also refers to articles 129–131 of the Criminal Procedure Code, pursuant to which arrest may not last more than 72 hours from the time of the apprehension.

52. Article 131.1 of the Criminal Procedure Code of the Republic of Armenia prescribes that within three hours after taking a person suspected in the committal of a criminal offence to the inquest body, to the investigator or the prosecutor, a protocol shall be drawn up on the arrest of the suspect, the copy of which shall be provided to the arrestee upon signature. The defence of the suspect, as well as the explication of the rights and duties thereof provided for by article 63 of the Code shall be stated in the arrest protocol. The protocol shall indicate the time of preparing the protocol (date, hour, minute), the time, the place, the ground (grounds), and the purpose of the arrest, the article of the Criminal Code of the Republic of Armenia envisaging the criminal offence the arrestee is suspected in, the findings of his/her personal search and other circumstances, as well as the statements and motions of the arrestee.

53. Pursuant to article 63 of the Criminal Procedure Code, the body conducting criminal proceedings shall provide the suspect with an opportunity to exercise his/her right to defence through all the measures not proscribed by law. After the arrest, the suspect shall immediately receive a written notification and explication of his/her rights from the inquest body, the investigator or the prosecutor, a free copy of the arrest warrant or the decision on imposing a measure of restraint issued by the criminal prosecution body, and after an arrest protocol has been drawn up – a copy thereof.

54. The suspect shall also have the right to meet his/her counsel in private, in confidence and in an unimpeded way, with no limitation on the number and duration thereof. Moreover, not later than within 12 hours immediately following the apprehension, the suspect shall — through the body conducting criminal proceedings, by telephone or through other possible means of communication — inform about the place of and the grounds for keeping him in custody to his/her close relatives, and in case of a conscript, to the command of the military unit.

55. The suspect shall have the right, inter alia, to submit materials for attaching to the case, to file challenges and motions, to object to the actions of the criminal prosecution bodies and to demand that his/her objections are recorded into the protocol of the investigative or other procedural acts, to get acquainted with protocols of investigative and other procedural acts he/she has participated in or has been present at, to submit observations on the accuracy and completeness of the records made in the protocol, to appeal against the actions and the decisions of an inquest body, an investigator, a

prosecutor and a court, to receive compensation for damage unlawfully caused by actions of the body conducting criminal proceedings.

56. As for the cases of apprehending a foreign national or a stateless person, article 12 of the Law of the Republic of Armenia on the Custody of Arrestees and Remand Prisoners reads: “foreign nationals and stateless persons arrested or taken into remand detention within the territory of the Republic of Armenia shall possess the same rights, freedoms and obligations as the nationals of the Republic of Armenia, unless otherwise provided for by the international treaties of the Republic of Armenia or by law.”

57. The body conducting criminal proceedings shall — within 24 hours — notify the state of which the apprehended person is a national, or, if he/she is a stateless person, the state where he/she usually resides and, in case of necessity, another interested state, about the place and grounds for keeping a foreign national or a stateless person in custody. When, pursuant to the international treaties of the Republic of Armenia, a foreign national or a stateless person is entitled to communicate with the appropriate representative or another representative — having an authority for such communication — of, respectively, the state of which he/she is a national or of the state where he/she usually resides, or to a visit by such representative, a request by the apprehended person to exercise such a right shall be granted. Arrestees or remand prisoners who are nationals of states without diplomatic or consular representations in the Republic of Armenia, as well as refugees or stateless persons arrested or taken under remand detention shall be entitled to communicate and maintain contacts with the diplomatic or consular representations of the state which takes charge of their interests or any national or international authority whose task is to protect such persons.

58. According to article 15 of the Law of the Republic of Armenia on the Custody of Arrestees and Remand Prisoners, an arrestee or a remand prisoner shall be entitled to private, unimpeded visits with his/her counsel without limitation in number and duration, as well as with his/her legal representative by the permission of the body conducting the criminal proceedings, upon pronouncing of the arrest warrant issued by the body conducting the criminal proceedings, of the arrest protocol or of the decision on imposing remand detention as a measure of restraint. Visits of arrestees and remand prisoners with their counsel shall be held under conditions where officers of the detention facilities or remand facilities can watch them, but not be able to hear them. Visits with close relatives, and, in case of remand prisoners, also with the representatives of mass media and other persons, shall be granted upon the decision of the head of the detention facility or remand facility. An arrested person shall be entitled to at least one visit with his/her close relatives for the duration of up to one hour. A remand prisoner shall be entitled to a minimum of two visits for the duration of up to three hours within a month with his/her close relatives, representatives of mass media and other persons.

## **Articles 7 and 12**

59. Article 17 of the Criminal Procedure Code of the Republic of Armenia lays down the principle of fair trial, according to which everyone shall have the right to trial of any criminal case relating to his/her interests, with the observation all the requirements of justice, by an independent and impartial court and within a reasonable timeframe.

60. In each case of uncovering elements of crime, the inquest body, the investigator, and the prosecutor shall be obliged to institute criminal proceedings within the limits of their competence, as well as to undertake all measures provided for by law for identifying the persons having committed the crime or the circumstances of the crime.

61. The inquest body, the investigator and the prosecutor may, on the grounds and manner provided for by law, arrest, interrogate and apply procedural compulsory measures against the suspect, as well as put him/her on trial as an accused and bring charges against him/her.

62. Article 41 of the Criminal Procedure Code of the Republic of Armenia lays down the powers of a court to examine and dispose of cases and materials received. According to the same article, refusal to administer justice is impermissible.

63. Moreover, according to article 53 of the Criminal Procedure Code of the Republic of Armenia, in the course of pre-trial proceedings the prosecutor is, inter alia, authorised to assign the inquest body and the investigator to prepare materials for instituting criminal proceedings in connection with the incident of crime.

64. Considering the fact that torture is a crime according to article 119 of the Criminal Code of the Republic of Armenia, the inquest body institutes criminal proceedings in case elements of torture are present, and the court examines the case brought before it and imposes a sentence as provided for by the mentioned article of the Criminal Code of the Republic of Armenia.

65. The Prosecutor's Office of the Republic of Armenia is critically engaged in organising and implementing effective control over observance of the requirements of the law in penitentiary establishments and places of applying other compulsory measures. In its sessions, the Board of the Prosecutor's Office has regularly discussed issues relating to the rights of the convicts, remand prisoners and arrestees, their living conditions, healthcare services, improvement of the manner and conditions of serving the sentence, release on parole or due to grave illness, persons having committed acts posing public danger in a state of insanity, and many other issues, as well as undertaken necessary measures aimed at restoring the violated rights of such persons and eliminating the shortcomings identified.

66. No cases of torture and other cruel, inhuman or degrading treatment have been registered in the penitentiary establishments under the Ministry of Justice of the Republic of Armenia in 2000–2009 except for the following case: a detainee suffered bodily injuries after being beaten up with rubber truncheons, with the use of special means of violence by penitentiary officers of "Vardashen" penitentiary establishment under the Ministry of Justice of the Republic of Armenia on 23 August 2007, which was a gross violation of the convict's rights protected by law. The relevant department of the Prosecutor's Office of the Republic of Armenia, which is engaged in control over the lawfulness of enforcing sentences and other compulsory measures, instituted a criminal case based on the elements defined in article 309 (2) of the Criminal Code of the Republic of Armenia, and charges were brought against the Deputy Head of "Vardashen" penitentiary establishment, the head and a junior specialist of the security unit of the same establishment. These persons were sentenced to two years of imprisonment by Yerevan Criminal Court. As of July 2009, the case of one of these persons was under examination by the Court of Cassation of the Republic of Armenia.

## Article 8

67. Extradition in the Republic of Armenia is carried out in accordance with article 16 of the Criminal Code of the Republic of Armenia and articles 478–480 of the Criminal Procedure Code of the Republic of Armenia.

68. According to article 16 (2) of the Criminal Code of the Republic of Armenia, extradition of foreign nationals and stateless persons, having committed a criminal offence beyond the territory of the Republic of Armenia and staying in the Republic of Armenia, to

foreign states for the purpose of prosecution and serving the sentence is conditional upon the existence of a relevant international treaty.

69. Nevertheless, even in the existence of a relevant international treaty, these persons are not extradited when there are substantial grounds to presume that extradition is requested for prosecution or punishment on the basis of their race, religion, social origin or political views.

70. Pursuant to article 478 of the Criminal Procedure Code of the Republic of Armenia, foreign nationals and stateless persons usually residing in a foreign state, who have committed a criminal offence within the territory of the Republic of Armenia, may, for institution of criminal proceedings against them in the appropriate foreign state or for continuation in that foreign state of the criminal proceedings instituted against them in the Republic of Armenia, be extradited to the appropriate foreign state in cases envisaged by the existing international treaty between that state and the Republic of Armenia.

71. Extradition may take place from the moment when the criminal offence was committed within the territory of the Republic of Armenia or when criminal proceedings were instituted to that effect up to the moment of rendering a judgment with regard to that person, or within other time limits provided for by the relevant international treaty of the Republic of Armenia.

72. As for including the crimes specified in article 4 of the Convention in the international treaties of the Republic of Armenia on extradition, it is not an accepted practice to separate certain crimes in the international treaties signed by the Republic of Armenia. Extradition takes place in case of all crimes, in the manner laid down by the international treaties and the legislation of the Republic of Armenia.

73. At present, the Republic of Armenia is a party to the following international treaties on extradition:

- Council of Europe European Convention on Extradition, and its two Protocols
- CIS Convention on Extradition of Persons Sentenced to Imprisonment for Serving Further Sentence
- CIS Convention on Extradition of Offenders with Mental Disorders to another State for Compulsory Treatment
- Agreement between the Government of the Republic of Armenia and the Government of Latvia on Extradition and Reception of Persons
- Treaty between the Government of the Republic of Armenia and the Government of the Republic of Bulgaria on Extradition
- Treaty between the Republic of Armenia and Georgia on Extradition
- Treaty between the Republic of Armenia and the United Arab Emirates on Extradition
- Agreement between the Republic of Armenia and the Islamic Republic of Iran on Extradition
- Treaty between the Republic of Armenia and the Arab Republic of Egypt on Extradition

## **Article 9**

74. Article 54 of the Criminal Procedure Code of the Republic of Armenia is fully dedicated to legal assistance on criminal matters in accordance with international treaties.

75. According to article 474 (1) of the Criminal Procedure Code of the Republic of Armenia, “Upon assignment or petition by courts, prosecutors, investigators, inquest bodies of the Republic of Armenia, the conduct of interrogation, inspection, seizure, search, expert examination and other procedural activities provided for by this Code within the territory of a foreign state, as well as upon the request of competent authorities and officials of a foreign state the conduct of procedural activities provided for by this Code within the territory of the Republic of Armenia shall be carried out in accordance with the international treaties of the Republic of Armenia, in the manner prescribed by those treaties and this Code.”

76. Paragraph 2 of the same article reads: “When carrying out procedural activities provided for by this Code, within the territory of the Republic of Armenia and upon the request of the competent authorities of a foreign state, the courts, prosecutors, investigators, and inquest bodies of the Republic of Armenia shall apply the rules of this Code with the exceptions provided for by the relevant international treaties. Pursuant to the requests of the competent authorities of a foreign state, the courts, prosecutors, investigators, inquest bodies of the Republic of Armenia, when carrying out procedural activities in the territory of the Republic of Armenia, may apply the rules of criminal procedure legislation of the corresponding foreign state, where application of the latter is envisaged by an international treaty in force to which the Republic of Armenia and the foreign state concerned are parties.”

77. According to article 475 (1) of the Criminal Procedure Code, “Communication concerning provision of legal assistance in criminal matters under the international treaties of the Republic of Armenia shall be carried out:

(1) Through the General Prosecutor’s Office of the Republic of Armenia with regard to the execution of requests concerning the conduct of procedural activities related to cases in pre-trial proceedings;

(2) Through the Ministry of Justice of the Republic of Armenia with regard to the execution of requests concerning the conduct of procedural activities related to cases pending before court, including execution of judgments. When provided for by the international treaties of the Republic of Armenia, communication may be carried out through diplomatic channels via diplomatic missions and consular offices of the Republic of Armenia in foreign states, which, upon receipt of corresponding requests, shall submit them without delay to the competent authorities provided for by this Part for further submission thereof to execution.”

78. Article 478 (1) of the Criminal Procedure Code also provides that all documents and other materials concerning the criminal offence committed by the person to be extradited and available for the proceedings of the court, as well as prosecution, investigation, and inquest bodies of the Republic of Armenia shall also be transferred to the competent authorities of the foreign state concerned in the manner prescribed by the relevant international treaty. Where the manner for transfer of documents and other materials is not envisaged or prescribed by an international treaty, the transfer thereof may be carried out in accordance with the arrangement agreed upon between the central authorities of the Republic of Armenia and that of a foreign state or between the court, prosecution, investigation, and inquest body responsible for direct communication and the competent authority of the foreign state. Copies of the transferred documents shall be kept with the court, prosecutor, investigator, and inquest body of the Republic of Armenia which has prepared or provided the documents.

79. The Republic of Armenia is a party to the following international treaties in the sphere of mutual assistance in criminal matters:

- Council of Europe: European Convention on Mutual Assistance in Criminal Matters, and its Additional Protocol
- Council of Europe: European Convention on the Transfer of Proceedings in Criminal Matters
- Council of Europe: European Convention on the Transfer of Sentenced Persons
- CIS Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (Chisinau 2002)
- CIS Interagency Agreement on Cooperation in the Sphere of Organising Execution of Criminal Punishments
- Agreement between the Republic of Armenia and the Republic of Bulgaria on Legal Assistance in Criminal Matters
- Agreement between the Republic of Armenia and Romania on Legal Assistance in Civil and Criminal Matters
- Treaty between the Republic of Armenia and Georgia on Legal Assistance in Criminal Matters
- Agreement between the Republic of Armenia and the Hellenic Republic on Legal Assistance in Civil, Family and Criminal Matters
- Treaty between the Republic of Armenia and the United Arab Emirates on Mutual Legal Assistance in Criminal Matters
- Treaty between the Republic of Armenia and the Republic of Lithuania on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters
- Agreement between the Republic of Armenia and the Islamic Republic of Iran on Legal Cooperation in Civil and Criminal Matters
- Treaty between the Republic of Armenia and the Arab Republic of Egypt on Mutual Legal Assistance in Criminal Matters

80. Pursuant to the above-mentioned international treaties, the Contracting Parties render to each other mutual legal assistance of various extent, which includes: preparation, transfer and delivery to the addressee of relevant documents; performing inspections, searches, executing seizures, and transfer of material evidence; carrying out expert examinations, as well as interrogation of parties, third parties, suspects, accused, victims, witnesses, plaintiffs in civil matters, respondents in civil matters, their representatives, and experts; submitting for identification, including through use of visual communication, video recording and other technical means; searching for persons; carrying out operational intelligence activities and criminal prosecution within the frames of the pending criminal case; extraditing persons for the purpose of holding them criminally liable or enforcing the judgment; as well as searching for and attaching the funds and property of illegal origin and proceeds of crime.

## **Article 10**

81. During the reporting period, extensive activities were carried out in the Republic of Armenia aimed at human rights education and awareness-raising of the population on relevant legal issues. Human Rights and Civil Education subjects were incorporated in the 8-th grade curriculum of Armenian schools. Since 2007, alongside with the mentioned subjects Social Science is also taught at schools. Since 2008, Social Science is taught in the 9-th grade as well, which incorporates the Human Rights component designed for one



semester. In parallel, students of secondary schools continue studying Civil Education (10th grade) and State and Law (11th grade) subjects. The mentioned courses include topics on human rights.

82. A number of trainings designated for judges were held at the Judicial School of the Republic of Armenia, which included the following topics: right to freedom of expression, failure to receive necessary medical care while in detention, torture and inhuman treatment of witnesses, presumption of innocence, right to silence, due notice of the place and time of trial, etc. Currently the Judicial School of the Republic of Armenia and the United Nations Development Programme Country Office jointly elaborate a training module regarding the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Training on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment will be held based on this module.

83. The minimum requirements laid down for the content of the general curriculum of law departments in higher educational institutions of Armenia includes the following courses: Theory of State and Law, Norms of Law, Legality, History of State and Law of Foreign Countries, Constitutional Law, Constitutional Status of a Human and Citizen: their Constitutional Rights, Freedoms and Duties, Constitutional Guarantees for their Realisation, Constitutional Law of Foreign Countries, International Law, International Security Law, Human Rights and International Law, and other similar courses incorporating the provisions of the Convention.

84. Regular training courses organised and held for officers of Penitentiary Service of the Republic of Armenia include educational materials regarding exclusion of torture and degrading treatment towards prisoners.

85. On 3 August 2006, the Government of the Republic of Armenia adopted Decision No. 1543-N on Approving the Internal Regulations for Remand Facilities and Correctional Establishments of the Penitentiary Service of the Republic of Armenia, which entered into force on 3 December 2006. The Internal Regulations define and regulate the manner of exercising the rights, freedoms and duties of remand prisoners and convicts, the rules of conduct of remand prisoners and convicts, the medical care and conditions and rules of keeping personal hygiene, the assurance of living conditions for remand prisoners and convicts, their work, education, access to books, magazines and journals, the manner of establishment and operation of self-governing associations of convicts, participation in religious ceremonies, the manner of granting visits, the manner of receiving and delivering parcels and packages, the manner of receiving and making monetary transfers, the filing of proposals, requests and complaints by remand prisoners and convicts, the correspondence, and the manner of granting telephone conversations and short-time leaves, etc. Compliance with the requirements of the Internal Regulations is compulsory for the administration of the remand facility and correctional establishment, remand prisoners and convicts, as well as other persons visiting remand facilities or correctional establishments.

86. Issues relating to human rights, including explication of issues regarding torture and degrading treatment have been incorporated in the curriculum of the professional and combat-readiness trainings organised for police officers. Relevant educational courses are also held at the Academy and the Educational Centre of the Police of the Republic of Armenia. Human rights issues are studied at the Police Academy of the Republic of Armenia within the framework of Human Rights and the Police, International Humanitarian Law and Constitutional Law subjects. Under the auspices of the OSCE, a special lecture room was opened at the Educational Centre of the Police of the Republic of Armenia designed for trainings on human rights.

87. The Law of the Republic of Armenia on Approving the Discipline Code of the Police of the Republic of Armenia was adopted on 11 April 2005, laying down the rules of ethics for police officers.

88. The Manual on International Humanitarian Law of the Armed Forces of the Republic of Armenia was approved upon the Decision of the Minister of Defence of the Republic of Armenia, and is in effect since 2003. The Ministry of Defence of the Republic of Armenia in cooperation with the International Committee of the Red Cross organises regular trainings for the Staff of the Armed Forces of the Republic of Armenia on the elements and principles of international humanitarian law, as well as prevention of torture and other cruel, inhuman and degrading treatment at military detention facilities by higher commandship against captives, prisoners of war, and military servicemen having committed a crime. Pursuant to the assignment of the Minister of Defence of the Republic of Armenia, works for amending the Military Discipline Code of the Republic of Armenia aimed at the utmost approximation thereof to the international standards and norms are underway. The new Discipline Code will be approved by the National Assembly of the Republic of Armenia and thus enacted as a law.

89. Topics on human rights issues and prevention of torture are also included in the curricula of the National Health Institute after S. Kh. Avdalyan of the Ministry of Health of the Republic of Armenia, and the trainings are conducted for doctors and pharmacists for the purpose of their professional advancement and supplementary specialisation. Since 1 September 2005, trainings are held on bioethics for postgraduates in medical sciences, clinical residents and young scientists of the School of Young Scientists. Similar trainings are also held for doctors and nurses within the framework of continuous vocational education curricula.

90. A course on Health Law has been elaborated and is currently taught at the above-mentioned institute, the main goal of which is to teach the medical personnel to be correctly guided in legal relations regarding medical care and service, and the human health, distinguish permissible and impermissible limits, choose the legitimate ways of carrying out their activities and of exercising their rights and performing their duties, get acquainted with the mechanisms for protection of their rights and the responsibilities they are bound by in this sphere. The introduction of the curriculum enables to enhance the knowledge of specialists engaged in medical care and service within the territory of the Republic of Armenia, particularly about the issues relating to torture, cruel, inhuman or degrading treatment. The mentioned measures aim to further develop the sector and create basis for the advancement and introduction of Health Law as a separate branch of law.

91. An instruction manual on Modern Theories of Medical Ethics, Medical Education and Medical Science was published in 2007, which includes studies on human rights issues.

## **Article 11**

92. In 2006 extensive amendments were made to Chapter 28 of the Criminal Procedure Code of the Republic of Armenia laying down the manner and conditions of interrogation, particularly in terms of precisely defining the procedures for interrogation and its duration. Thus, the Code was supplemented with article 205 bis, according to which the interrogation may not continue uninterrupted for more than four hours for adults, and not more than two hours in case of interrogating a juvenile or a person suffering from mental or other grave illness. Interrogation of a person may continue only after the interrogated person is provided with at least one hour break for rest and meal. Nevertheless, the total duration of interrogating the adults may not exceed eight hours, and for juveniles and persons suffering from mental or other grave illness – six hours per day. Based on the medical conclusion, the

investigator may set shorter periods of interrogation as compared to those laid down in this article.

93. Article 206 (6) of the Criminal Procedure Code of the Republic of Armenia envisages an opportunity for the witness to be interrogated in presence of a counsel invited by the former for the purpose of providing legal assistance to the witness. The counsel has the right to attend the interrogation and, in case of questions or actions violating the rights of the witness provided for by the relevant article of the Criminal Procedure Code of the Republic of Armenia, the counsel has the right to make announcements that are included in the interrogation protocol. The fact, progress and results of interrogation are recorded in the protocol drawn up in accordance with the Criminal Procedure Code of the Republic of Armenia.

94. Arrested suspect has the right to be interrogated in the presence of a counsel. When it is impossible to immediately ensure participation of a counsel, the investigator will be obliged to ensure his/her presence within 24 hours after apprehending the suspect. Prior to the interrogation, the suspect will, upon his/her request, have an opportunity to private, confidential and unimpeded visits with his/her counsel. In any case, the duration of the counsel's visit may not be less than two hours. As to the interrogation of the accused, the investigator is obliged to interrogate him/her immediately upon bringing a charge against him/her, but not later than within 24 hours, and in case of evasion by the accused or search for the latter – within 48 hours after being subjected to compulsory appearance. The accused has the right to be interrogated in the presence of the counsel; moreover, in cases provided for by the Criminal Procedure Code of the Republic of Armenia, the attendance of the counsel is mandatory.

95. The mentioned amendments to the Criminal Procedure Code of the Republic of Armenia have been made with a view to making the interrogation process more manageable and minimising inhuman and other degrading treatment of suspects or accused. Despite the provisions set forth through legislative reforms, there are still issues related to implementation, which require constant attention and additional work improvement.

96. According to article 12 of the Penitentiary Code of the Republic of Armenia, convicts have the right to the following:

- (a) To be informed — in their native language or other language which they understand — of their rights, freedoms and duties, manner and conditions of execution of the sentence imposed by the court, amendments thereto, recommendations, requests and complaints, as well as on relevant international documents;
- (b) Courteous treatment towards themselves;
- (c) To file requests and complaints regarding violations of their rights and freedoms, in person or through a counsel or a legal representative, with the administration of the punishment execution body or establishment, their superior authorities, the court, prosecutor's office, human rights defender, state and local self-government bodies, non-governmental associations and parties, mass media, as well as with international human rights bodies or organisations;
- (d) Health care, including receiving sufficient food, and medical treatment;
- (e) Social security;
- (f) To receive legal assistance;
- (g) Personal safety;
- (h) Freedom of thought, conscience and religion, political or other opinions;

- (i) To communicate with the outside world, including maintaining correspondence, have visits, enjoy telephone communication, literature and available mass media;
- (j) To rest, including open air walk or exercise, as well as to eight hours of night sleep;
- (k) To be called by their name and surname;
- (l) To apply to the head of the punishment execution body or establishment, as well as to authorities carrying out control and supervision over that body or establishment, with a request for a personal meeting;
- (m) To participate in civil transactions;
- (n) To receive education that is available and provided for by law, engage in creative work;
- (o) To purchase, from a shop or a mini-shop of the punishment execution establishment or through the latter's administration, additional food and basic necessities;
- (p) To receive and make money transfers, receive and send parcels and packages.

97. As for the conditions of keeping in custody and treatment of arrestees, remand prisoners or imprisoned persons, they are regulated, as mentioned above, by law of the Republic of Armenia on the Custody of Arrestees and Remand Prisoners adopted by the National Assembly of the Republic of Armenia on 6 February 2002 and the Regulation approved by the Decision of the Government of the Republic of Armenia No. 543-N of 3 August 2003, which envisage liability for breaching the principles, conditions and manner prescribed thereby. Nevertheless, information regarding physical ill-treatment in penitentiary establishments under the Ministry of Justice of the Republic of Armenia is thoroughly investigated and relevant measures are imposed on the offenders. Special attention is attached to proper recording of possible injuries of remand prisoners and convicts and to accurate response mechanisms to their complaints.

98. However, there are cases where penitentiary officers are compelled to use physical force or special means in accordance with the law, when remand prisoners and convicts do not obey the lawful orders of the personnel of the penitentiary establishment, hinder the performance of their duties or commit unlawful actions. Each case of using physical force or special means is recorded. Where a prisoner disagrees to the actions of penitentiary administration, he/she can appeal against them, as well as against any action violating his/her rights. In case of inflicting injury to the health or causing death of a prisoner as a result of using physical force or special means, it is mandatory to send a written communication thereon to the Head of the Penitentiary Department and the prosecutor. Prosecutors carrying out oversight get familiar, on regular basis, with the cases of using force or special means, for determining the proportionality of the use thereof to the nature and level of the threat of the offence or resistance. The use of physical force or special means as a punishment is excluded. From 2006 to June 2009 physical force or special means were used against 74 remand prisoners and convicts for disobeying the lawful orders of penitentiary officers or committing unlawful actions. Relevant protocols have been drawn up for all cases and set in motion as prescribed by law. No complaints were made to the heads of penitentiary establishments or to the administration of the Penitentiary Service with regard to any case by a remand prisoner or a convict.

99. At the same time, point 2.1 of Internal Regulations for the detention facilities under the Police of the Republic of Armenia envisages that the arrestee familiarises with the written text of internal regulations for the detention facilities, and assigns regional police

authorities to place, together with the daily plan, a notice on the rights and duties of the persons kept in detention facilities on the walls of facility cells.

100. In accordance with paragraph 4 of the Executive Order of the President of the Republic of Armenia No. NK-328-NG of 28 December 2004, and paragraph 4.4 of the Order of the Head of the Police of the Republic of Armenia No. 5-Ag of 31 January 2005, practical steps were undertaken towards ensuring a minimum floor space of 4 square meters per person for all persons kept in custody facilities, sufficient intra-cell lighting (including natural light) and ventilation, mattress and night bedclothes, and for persons under administrative detention – an opportunity to take a hot bath at least once a week. Cells and sanitary installations are kept in hygienically sufficient condition. Handout food rations for arrestees were increased upon the Decision of the Government of the Republic of Armenia No. 587-N of 15 May 2003. Nevertheless, due to the increase of the number of detainees, detention facilities often become overcrowded creating certain difficulties for fully implementing the above-mentioned provisions; such issues will be settled resultant to the reforms of the existing infrastructures and the construction of new ones. (see paragraph 102).

101. It is also worth mentioning that activities aimed at infrastructure reforms of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia are underway within the scope of a similarly-titled programme concept paper. The forecasts of such future capacity of the Service for the upcoming decade, which derives from the criminal policy, form the basis of the programme concept paper for infrastructure reforms of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia.

102. According to the mentioned concept paper, construction of several new penitentiary establishments, as well as termination of operation of some old ones is planned within the framework of the infrastructure reforms activities. Within this framework, a completely new penitentiary establishment will be put into operation following the completion of construction works which have commenced in 2007 on the site adjacent to the town of Echmiatsin, after which the operation of “Sevan” penitentiary establishment under the Ministry of Justice of the Republic of Armenia will be terminated, and a completely new penitentiary establishment will be constructed in lieu. The operation of “Gyumri” penitentiary establishment under the Ministry of Justice of the Republic of Armenia, as well as the exploitation of those premises of “Vanadzor” penitentiary establishment which are old and unfavourable for persons serving their sentence has already been terminated. The new building of “Vanadzor” penitentiary establishment under the Ministry of Justice of the Republic of Armenia was opened in the town of Vanadzor on 19 March 2007. Facility, space and cell conditions of the new building are exemplary in comparison to other similar institutions in the territory of the Republic of Armenia and are, to the extent possible, in line with the international standards. The surface of cells provides each inmate with at least 4 square metres space, the cells have wide windows, toilet facilities are completely separated, backyards of required quantity and surface are available, etc. The institution is designed for holding remand prisoners and convicts serving their sentence in “closed type” correctional establishments. Currently, each remand prisoner and convict held in “Goris” penitentiary facility under the Ministry of Justice of the Republic of Armenia is provided with at least 4 square metres of living space. In 2006, refurbishment works were initiated in the institution: toilets have been separated; the heating system has been renewed. The refurbishment works are ongoing. A new building for “Goris” penitentiary establishment in compliance with modern requirements is planned to be constructed in the nearest future.

103. For ensuring efficient outdoor leisure activities based on the daily plan for remand prisoners and convicts, engaging them in various types of activities (sport, education, work), and arranging leisure activities for prisoners in newly constructed establishments, relevant conditions in Vanadzor’s newly constructed penitentiary establishment have

already been created. In other establishments, where there is a need for thorough refurbishment, the need for creating the mentioned conditions is also taken into account.

104. With the purpose of ensuring work activities for convicts, the Support to Convicts Fund established by the Government of the Republic of Armenia operates within the Penitentiary Service. The Fund has not yet registered a significant progress which is attributable to scarcity of vacancies in the establishments, and in certain establishments also by their total absence. Ways are being considered for establishing alternative employment arrangements through collaboration of the Penitentiary Service and the Fund. To this end, in 2006 an exhibition shop called "Prison Art" was opened in the city of Yerevan, where works of convicts are sold. The proceeds from sales are transferred to the personal accounts of convicts. The number of convicts involved in that activity is gradually increasing.

105. For the purpose of organising educational and vocational training of remand prisoners and convicts, relevant arrangements with various educational institutions are planned. The issue relating to the organisation of public education of juvenile convicts has already been settled: on 1 December 2006, the Minister of Science and Education of the Republic of Armenia assigned the competence to also organise public education of convicts to Abovyan Trade Technical College No. 2 where the courses are currently being conducted in accordance with the educational programmes established in the Republic.

106. For the purpose of raising the level of employment, small workshops are designed to be established in operating penitentiary establishments (works have been carried out since June 2007), which will satisfy the minimum conditions for engaging remand prisoners and convicts in crafts.

107. A special emphasis is also put on life-sentenced prisoners. During 2006, significant work has been carried out to improve the cell conditions of the life-sentenced prisoners. Custody conditions of the life-sentenced prisoners, including education and work related issues are permanently in the focus of attention of penitentiary officers. Issues relating to involvement of the life-sentenced prisoners in rehabilitation programmes are being discussed since the last year with the International Prison Reforms Organisation, as a result of which an efficient settlement of the mentioned issues based on international practices is expected. For ensuring their active communication with the outside world, in addition to their access to telephone calls, visits, library, there are TV sets, radio sets, tape recorders in almost all cells, a number of newspapers and entertainment magazines, monthly papers and other periodicals are also often distributed to convicts through which they are able to keep in touch with the outside world.

108. According to the Internal Regulations for remand facilities and correctional establishments of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia adopted by the Government of the Republic of Armenia, by the Decision No. 1543-N of 3 August 2006, a remand prisoner or a convict may, at his/her own expense, avail himself/herself of telephone communication installed in the site of remand facilities or correctional establishments respectively. The opportunity for making use of telephone communication is provided to remand prisoners by the authority conducting criminal proceedings, the duration for the use of which may not exceed 15 minutes in each case. However, where appropriate, the duration of the use of telephone communication may be prolonged for another 10 minutes.

109. In the manner prescribed by the Internal Regulations of remand facilities and correctional establishments of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia, "open" and "semi-closed" establishments are equipped with mail boxes in easily accessible places for convicts, which, for the purpose of checking the existence of correspondence, are opened at the end of each working day by the relevant representative of the administration of the penitentiary establishment. The correspondence

in “semi-closed” and “closed” correctional establishments is delivered to the representative of the administration. The correspondence is dropped into the mail box or is delivered to the representative of the administration of the correctional establishment in sealed condition.

110. Chapter 16 of the same Regulations defines the procedure for granting visits according to which remand prisoners or convicts are granted visits with their families, mass media or other persons upon the decision of the head of remand facility or correctional establishment, and in his/her absence, upon the decision of the deputy head.

111. Visits more than the minimum number of visits defined by the legislation of the Republic of Armenia are not granted to remand prisoners or convicts having a negative record, not demonstrating law-abiding behaviour, demonstrating dishonest attitude towards work or education, or under a disciplinary sanction.

112. Maximum three adults and five minors are allowed to have a visit at the same time with a remand prisoner. A convict serving his/her sentence in a “closed”, “semi-closed” or “semi-open” establishment may be allowed to have a visit at the same time with not more than three adults in case of a short-term visit, and with not more than two adults in case of a long-term visit, who may be accompanied by minor siblings, children and grandchildren of the convict. Short-term and long-term visits are, without any restriction in the number of visitors, granted to convicts serving their sentence in an “open” correctional establishment.

113. Visits of close relatives or other persons are carried out under the control of the administration of remand facility or correctional establishment, except for cases prescribed by law and long-term visits designed for convicts. Early termination of a visit is allowed in case of uncovering transfer of or the fact of making an attempt to transfer prohibited items or objects envisaged by this Regulations to a remand prisoner or a convict by the aforementioned persons.

114. Visits of defence counsel are held in rooms designed for carrying out investigative activities or in visiting rooms of remand facilities. For the purpose of getting legal assistance, convicts are, upon their request, granted with visits of advocates or representatives of human rights organisations without any restriction in the number of visits, on working days, and in the manner prescribed by law or the Regulations for granting a short-term visit to convicts.

115. According to article 50 of the Penitentiary Code of the Republic of Armenia, convicts are entitled to at least two short-term visits per month. Visits are granted with close relatives. Convicts are granted visits with counsel without any restriction in the number and duration thereof. Visits of a convict with a counsel take place in private. A convict may be granted an extra short-term visit as an incentive measure for demonstrating law-abiding behaviour.

116. The Law of the Republic of Armenia on Custody of Arrestees and Remand Prisoners regulates the issues pertaining to medical and sanitary assistance and personal hygiene of arrestees and remand prisoners. Administrations of detention facilities and remand facilities ensure implementation of sanitary and hygienic, as well as anti-epidemic requirements aimed at health care of arrestees and remand prisoners.

117. Thus, every remand facility must employ at least one qualified general doctor. Any arrestee or remand prisoner, who needs a specialised health care, is transferred to a specialised or civil medical institution. In case of discovering bodily injuries with an arrestee or a remand prisoner, a medical officer of detention facilities or remand facilities or a visiting medical officer immediately conducts medical examination, where a doctor chosen by the arrestee or remand prisoner may participate. The results of medical examination are recorded in the personal file in the prescribed manner, and the patient, as

well as the body conducting criminal proceedings are informed thereof. In case of discovering serious illness with an arrestee or remand prisoner which may result in his/her mental illness or death, the head of the relevant establishment, based on a medical opinion, files a motion with the body conducting criminal proceedings and the prosecutor conducting oversight on revoking the compulsory measure or changing it.

118. Under paragraph 37 of the Decision of the Government of the Republic of Armenia No. 825-N of 26 May 2006, all medical examinations must be conducted out of the hearing of penitentiary or other officers. Upon the doctor's request, medical examinations may also be conducted out of the sight of penitentiary or other officers. The provision prescribed by the Decision of the Government of the Republic of Armenia is implemented to the benefit of establishment of adequate relations between a patient and a doctor.

119. In case of serious illness or death of an arrestee or remand prisoner, the administration of detention facility or remand facility immediately informs thereof to the close relatives of the arrestee or remand prisoner, to the body conducting criminal proceedings and the prosecutor conducting oversight. In case of serious illness or death of a foreign arrestee or remand prisoner, the administration of a relevant establishment immediately informs thereof to its superior body, which in its turn informs the agencies concerned, including the diplomatic mission or the consular office of the relevant state.

120. It is prohibited to subject an arrestee or a remand prisoner to medical or scientific experiments regardless of his/her consent.

121. Remand prisoners and convicts have the right to also avail themselves of other qualified medical practitioners' services at their own expense.

122. The activity of the entire medical staff of the Penitentiary Service is regulated by the Decision No. 825-N adopted by the Government of the Republic of Armenia on 26 May 2006, on Approving the procedure for arranging medical and sanitary, as well as medical and prophylactic assistance for remand prisoners and convicts, for access to medical facilities of health care institutions and for engaging for that purpose their medical staff.

123. The availability of necessary funds made it possible to provide the penitentiary establishments with necessary medicine and medical accessories, both in terms of quantity and variety. The Order of the Head of the Penitentiary Department of the Ministry of Justice of the Republic of Armenia No 83-L of 2 August 2006 regulates the issue pertaining to the procurement of medicine in exceptional cases.

124. Regrettably, due to housing and technical conditions, it is not expedient to establish women's unit in the "Hospital for Prisoners" penitentiary establishment under the Ministry of Justice of the Republic of Armenia. Medical and sanitary conditions and services for women are planned to be enlarged in "Abovyan" penitentiary establishment under the Ministry of Justice of the Republic of Armenia. Female remand prisoners and convicts, where appropriate, are hospitalised in medical facilities of health care institutions, which is regulated by the Decision of the Government of the Republic of Armenia No. 825-N of 26 May 2006.

125. Necessary investigations are being carried out based on the laboratory facilities of "Hospital for Prisoners" and "Nubarashen" penitentiary establishments under the Ministry of Justice of the Republic of Armenia, as well as of medical facilities of health care institutions.

126. Efforts are underway to fill in the vacancies for medical staff, including psychiatrists. Life-sentenced prisoners are located at the "Nubarashen" penitentiary establishment under the Ministry of Justice of the Republic of Armenia, where the position of a psychiatrist is filled in.



127. It is worth mentioning that the social, psychological and legal activities units were established in 2001 upon the transfer of the Penitentiary Service under the authority of the Ministry of Justice of the Republic of Armenia. These subdivisions have relevant operational procedures (approved by the Order of the Minister of Justice of the Republic of Armenia No. 44-N of 30 May 2008) and a scope of tasks, which include provision of psychological assistance to remand prisoners and convicts. Work is underway to staff all the penitentiary establishments with qualified psychologists.

128. The Penitentiary Service has adopted the following approach with regard to cases of self-injury: in each similar case, special written communications are received by the Penitentiary Department and immediate measures are taken for identifying and specifying the causes of the incident, personal, psychological and health conditions of the person having committed the act concerned, as well as circumstances relating to the incident, and for elaborating a relevant intervention plan. For the purpose of exercising control over the cases of self-injury and for enhancing the activities carried out for their prevention, the officers of the social, psychological and legal activities and security units of the Penitentiary Department were given a relevant assignment by the Head of the Penitentiary Department of the Ministry of Justice of the Republic of Armenia for arranging a meeting with persons who have committed self-injury, and for reporting on actions taken. One position for “chief specialist-psychologist” is designed for each of the eleven penitentiary establishments and the Penitentiary Department of the Ministry of Justice of the Republic of Armenia. All the positions are filled with relevant specialists. The leading specialist of the social, psychological and legal activities group of “Yerevan-Kentron” penitentiary establishment has a qualification of a lawyer-psychologist and performs activities of psychological nature as well.

129. In collaboration with the social, psychological and legal activities and security units, persons inclined to self-injury are placed under the supervision of medical staff. Whenever it is found out that the case of self-injury does not carry the purpose of committing a specific offence, but is rather caused by reasons of psychological or psychiatric nature, it is not considered as an offence and social and psychological activities are carried out with the person concerned.

130. According to article 95 of the Penitentiary Code of the Republic of Armenia, for violating the established procedure for serving a sentence, the following sanctions may be imposed on the person sentenced to imprisonment:

- (a) Reprimand;
- (b) Severe reprimand;
- (c) Placing in a disciplinary cell for a period of fifteen days, and in case of a juvenile prisoner – for a period of ten days.

131. While imposing sanctions on a convict, the circumstances for committing the offence, personality of the convict and his/her behaviour before committing the offence are taken into account. The sanction imposed must be in compliance with the seriousness and nature of the offence committed. All sanctions are imposed in writing upon the decision of the head of correctional establishment or his/her alternate. The convict is transferred to a disciplinary cell compulsorily, mentioning the duration of holding in that place.

132. A convict having a child in the orphanage of a correctional establishment, breastfeeding mothers, pregnant convicts, convicts in prenatal or in post natal period are not transferred to a disciplinary cell. In case of being transferred from a disciplinary cell to a medical correctional establishment, the term of holding a convict in a healthcare correctional establishment is included in the term of serving the sanction.

133. Article 98 of the Penitentiary Code of the Republic of Armenia prescribes that convicts transferred to a disciplinary cell are entitled to spend, on a monthly basis, for the purpose of acquiring supplementary food and basic necessities, from their own account a sum in the amount of tenfold minimum salary fixed by the legislation of the Republic of Armenia, as well as enjoy a daily one-hour walk. A convict held in a disciplinary cell is under the medical control and the sanction imposed on the convict may be early terminated upon the doctor's recommendation.

134. According to paragraph 231 of the Decision of the Government of the Republic of Armenia No. 1543 of 3 August 2006, remand prisoners or convicts are provided with separate bedding only at hours envisaged for sleep.

135. Remand prisoners and convicts are not allowed to keep personal belongings in the disciplinary cell, except for articles of hygiene, as well as religious literature and pictures. Remand prisoners or convicts held in a disciplinary cell receive their meals in the disciplinary cell. The disciplinary cell is cleaned by the remand prisoner or the convict held therein. Imposition of restrictions, other than those prescribed by law, on persons held in disciplinary cells is prohibited.

### **Article 13**

136. Chapter 12 of the Criminal Procedure Code of the Republic of Armenia covers the protection of persons participating in criminal proceedings. It is envisaged that each person participating in criminal proceedings, who is in a position to communicate data essential for detecting the crime and its perpetrator, as a result of which life, health, property, rights and legitimate interests of the person, a member of his/her family, a close relative or a kinsman may be threatened, is entitled to protection.

137. According to part 4 of article 17 of the Criminal Code of the Republic of Armenia, complaints about breaches of legality during criminal proceedings must be thoroughly verified by the body conducting criminal proceedings.

138. The court's powers are, in particular, to examine and adjudicate, in cases provided for by law, complaints against decisions and actions (inaction) of inquest body officers, investigators, prosecutors, and bodies conducting operational-intelligence activities (article 41 of the Criminal Procedure Code of the Republic of Armenia).

139. Chapter 18 of the Internal Regulations for remand facilities and correctional establishments of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia adopted by the Government of the Republic of Armenia by the Decision No. 1543-N of 3 August 2006, regulates issues relating to the submission of proposals and requests, as well as filing complaints by remand prisoners and convicts, and to the processing thereof.

140. Thus, the administration of remand facilities or correctional establishments is obliged to accept, without any quantitative restrictions, proposals and requests submitted, as well as complaints filed by remand prisoners or convicts. Proposals and requests submitted, as well as complaints filed by remand prisoners or convicts are sent to addressees within three working days following their delivery. The administration of remand facilities or correctional establishments examines the proposals, requests and complaints addressed to them in the manner and within the time limits prescribed by the legislation of the Republic of Armenia. The answers to proposals, requests and complaints are submitted to a remand prisoner or a convict upon signature and, if desired, are attached to his/her personal file. Proposals, requests and complaints addressed to the administration of remand facilities or correctional establishments are attached to the personal file of a remand prisoner or a convict respectively. Upon taking the proposals, requests and complaints from a remand

prisoner or a convict, the representative of the administration of a remand facility or correctional establishment makes an entry in the relevant register on taking thereof, where the remand prisoner or the convict also signs to that effect. Implementation of the mentioned right of convicts to make requests and complaints reach the addressee is thus secured. Within the period from 2006 to June 2009, 43844 requests, 40 complaints and 4 proposals of remand prisoners and convicts were submitted to the penitentiary establishments and the Penitentiary Department of the Ministry of Justice of the Republic of Armenia.

## Article 14

141. The Constitution of the Republic of Armenia states that everyone is entitled to recover damages in case he/she has been unlawfully deprived of freedom or subjected to search, on the grounds and by the procedure defined by law. Everyone is entitled to appeal to a higher instance court against the lawfulness and well-founded nature of depriving him/her of freedom or subjecting to search (art. 16).

142. According to article 22 of the Criminal Procedure Code of the Republic of Armenia, the acquitted person has the right to restoration of his/her rights, including the compensation of the pecuniary loss caused by the bodies conducting criminal proceedings.

143. Any person who has been unlawfully subjected to compulsory measures by the body conducting criminal proceedings also has the right to compensation of pecuniary loss.

144. Bodies conducting criminal proceedings are obliged to implement all the measures provided for by the Code aimed at the restoration of the rights of an acquitted person.

145. Legislation of the Republic of Armenia does not provide for any other form of compensation to the victim of torture, or in case of his/her death – to his/her dependents.

146. Chapter 60 of Section 9 of the Civil Code of the Republic of Armenia regulates the obligations arising as a result of causing damage. Thus, according to article 1058 (1) of the Civil Code of the Republic of Armenia, damage caused to an individual or his/her property is subject to full compensation by the person who has caused the damage, whereas article 1063 provides for liability for the damage caused by state and local self-government bodies and their officials. According to the mentioned article, the damage caused to an individual or a legal person as a result of illegal actions (inaction) of state bodies, local self-government bodies or their officials is compensated by the Republic of Armenia or the municipality concerned.

147. Article 1064 of the Civil Code of the Republic of Armenia provides for liability for the damage caused through unlawful actions of inquest or pre-trial investigation bodies, prosecutor's office or court. According to part 1 of the mentioned article, damage caused as a result of illegal conviction, holding criminally liable, imposing pre-trial detention or personal recognizance as a measure of restraint, or imposing an administrative sanction is fully compensated by the Republic of Armenia in the manner prescribed by law, irrespective of the fault of officials of inquest or pre-trial investigation bodies, prosecutor's office or court.

148. In case of causing disability or other harm to the health of an individual, the salary (income) of the victim that he/she was receiving or could have received, as well as additional expenses arising as a result of health deterioration are subject to compensation, including expenses for treatment, supplementary food, procurement of medicine, prosthetic repair, external care, sanitary-resort treatment, special transports procurement, expenses for gaining another profession if it became evident that the victim is in need of such types of assistance and care and is not entitled to have them free of charge. According to article

1084 of the Civil Code of the Republic of Armenia, the amount of compensation for damages caused to the life and health of the victim is, in case of growing prices, subject to adjustment in the manner provided for by law, whereas in case of increase in the size of the minimum salary, the amounts of the lost salary (income) and other payments relating to the causal of damage to life and health of the victim increase commensurate with the increase in the minimal size of salary (art. 357). The compensation of damage connected with the decrease in the capacity for work or death of a victim is transmitted through monthly payments. The court may, taking into account the financial status of the person who caused damages and upon the request of the individual entitled to compensation for the damage, assign the amount due in a single payment, but for not more than three years (art. 1085).

149. According to article 1087 of the Civil Code of the Republic of Armenia, persons liable for the damage relating to the death of the victim are obliged to compensate the necessary expenses relating to funerals to the person who has borne those expenses.

## **Article 15**

150. Article 86 of the Criminal Procedure Code of the Republic of Armenia covers the rights and obligations of a witness. He/she is particularly entitled to refuse to give evidence regarding himself or herself, his spouse or close relatives, as well as to submit materials and information, if they are likely to incriminate him/her, his/her spouse or close relatives.

151. Bodies conducting criminal proceedings and persons conducting investigative or other procedural activities are obliged to clarify to the witness his/her rights and obligations before commencing each investigative or procedural activities performed with his/her participation. The rights and obligations of a witness may be clarified thereto by the body conducting criminal proceedings once prior to his/her first interrogation and again at court hearing.

152. It is prohibited to extort evidence from a suspect, accused, defendant in court, victim, witness and other persons participating in criminal proceedings through violence, threat, deception, infringement of their rights, or other unlawful actions.

153. According to article 104 of the Criminal Procedure Code of the Republic of Armenia, during the criminal proceedings it is allowed to make use of only those factual data (including witness evidence) which were obtained in compliance with the requirements prescribed by law.

154. According to article 105 of the Criminal Procedure Code of the Republic of Armenia, materials, which were obtained through violence, threat, deception, ridicule of a person, as well as through other unlawful actions, infringement of the rights of a witness, or serious violation of the execution procedure of investigative or other procedural activities, may not form basis for charges in criminal proceedings and used as evidence.

155. While collecting evidence, those violations are deemed to be serious which were demonstrated through violation of human or civil constitutional rights and freedoms or of any requirement of the Criminal Procedure Code of the Republic of Armenia, by deprivation or restriction of the rights of participants of criminal proceedings guaranteed by law, or have anyhow affected or could have affected the reliability of the factual data obtained.

156. Inadmissibility of the use of evidence is defined by article 106 of the Criminal Procedure Code of the Republic of Armenia. Thus, the inadmissibility of use of factual data as evidence, as well as the possibility for their restricted use in proceedings is approved by a body conducting proceedings at its own motion or at the party's request.

157. The obligation for substantiating the admissibility of evidence lies with the party obtaining it. Where all the requirements of this Code have been observed in obtaining evidence, the obligation for substantiating the inadmissibility of the evidence lies with the party questioning its admissibility.

## Article 16

158. Section 7 of the Special Part of the Criminal Code of the Republic of Armenia adopted by the National Assembly of the Republic of Armenia on 18 April 2003 covers crimes against individuals. Chapters 16, 17 and 19 of the mentioned Part of the Criminal Code of the Republic of Armenia prescribe crimes against life and health, crimes against person's freedom, honour and dignity, crimes against human and civil constitutional rights and freedoms, as well as the punishments prescribed.

159. Among crimes which do not amount to torture as defined in article 1 of the Convention but constitute cruel and inhuman treatment and are envisaged by relevant articles of the Criminal Code of the Republic of Armenia, the following may be identified: murder, causing somebody to commit suicide, abetment to suicide, causing grave, medium-gravity or light harm to health, battery, unlawful deprivation of liberty, and even insult.

160. As to the commitment of the mentioned acts by or at the instigation of or with the consent of public officials, the Criminal Code of the Republic of Armenia prescribes that any person who has committed a crime is subject to the punishment or other criminal law measure provided for by the Criminal Code of the Republic of Armenia.

161. Persons who have committed a crime are equal before the law and are subject to criminal liability regardless of gender, race, colour, language, religion, political or other convictions, national or social origin, membership to a national minority, birth, property or other status.

162. Liability is inevitable also for persons who, under article 38 of the Criminal Code of the Republic of Armenia, are deemed to be accomplices to the perpetrator. According to the mentioned article, for abetting another person to commit a crime through persuasion, material enticement, threat or any other way, the mentioned person is subject to liability under the article providing for the crime committed.

163. Besides, the Criminal Code also provides for deprivation of the right to hold certain positions or engage in certain activities, which is applied both as a primary and as an additional punishment. Thus, deprivation of the right to hold certain positions as a primary punishment is prescribed for a period from two to seven years for intentional crimes and from one to five years for negligent crimes, as well as from one to three years as an additional punishment.

164. The Ministry of Health of the Republic of Armenia has taken measures to prevent other forms of cruel, inhuman and degrading treatment and punishment in institutions under its authority: this particularly refers to the respect for the rights of persons in psychiatric institutions, as well as persons undergoing compulsory treatment (provided for by Chapter 15 of the Criminal Code). Issues relating to mental health were defined as a priority by the Decision No. 1800-N of 23 November 2006 on Approving the Action Plan and Priorities of the Government of the Republic of Armenia for 2007. For the implementation thereof, on 19 May 2009 the National Assembly of the Republic of Armenia adopted the Law of the Republic of Armenia on Making Supplements and Amendments to the Law of the Republic of Armenia on Psychiatric Care which introduced a number of supplements to the existing law. In particular, the rights of persons transferred to a psychiatric institution have been clarified. Based on a series of supplements, draft decisions of the Government of the Republic of Armenia on inpatient and outpatient mental health care provision, as well as

procedure on conducting inpatient and outpatient forensic psychiatric expert examinations will be submitted for approval to the Government of the Republic of Armenia in December 2009.

165. It is worth mentioning that, as of June 2009, the new draft law of the Republic of Armenia on Making Supplements to the Law of the Republic of Armenia on Psychiatric Care was put circulation: the draft law establishes the procedures for provision of persons suffering from mental disorder in psychiatric institutions with telephone communication and correspondence, journals and newspapers, assistance with regard to legal issues, informing of the rights of persons suffering from mental disorder in psychiatric institutions; the form of bulletin for informing of rights of persons suffering from mental disorder will also be approved by the body authorised in the field of health care. The above-mentioned is geared at boosting the level of awareness of persons committed to psychiatric institutions and to prevent any possible manifestations of inhuman and degrading treatment by clarifying through a series of secondary legislation, the rules of procedure for health care providers in the mentioned institutions.

166. Eight orphanages and seven institutions performing boarding education and care of children operate under the Ministry of Labour and Social Issues of the Republic of Armenia. Three orphanages have been transferred to the Ministry in 2003 (prior to that, two of these orphanages were operating under the Ministry of Education and Science of the Republic of Armenia, and the other one – under the mayor's office of the town of Gyumri). Up to September 2007, institutions performing boarding education and care of children were special public educational institutions for orphans and children left without parental care, operating under the Ministry of Education and Science of the Republic of Armenia, and upon their reorganisation, they were transferred to the jurisdiction of the Ministry of Labour and Social Issues of the Republic of Armenia. According to the information provided by orphanages and boarding care institutions, no cases of violence against children have been recorded so far.

167. By the Decision of the Government of the Republic of Armenia No. 1324-N of 5 August 2004, state minimum social criteria necessary for children's education and care in orphanages were approved, the second criterion of which covers protection of children's rights. By the Decision of the Government of the Republic of Armenia No. 1454-N of 8 September 2005, those criteria extended to all institutions involved in child care and protection.

168. According to the above-mentioned criteria, the child care and education in institutions engaged in child care and protection is implemented in compliance with the requirements of the Constitution of the Republic of Armenia, the Convention on the Rights of the Child, the Law of the Republic of Armenia on the Rights of the Child, and the Law of the Republic of Armenia on Social Protection of Children Left without Parental Care, as well as other legal acts. Institutions engaged in child care and protection ensure the implementation of the right of a child and persons acting on their behalf (parents not deprived of parental rights or legal representatives, relatives) to file complaints against unlawful actions of the staff of the institution, as well as establish an internal procedure for filing complaints complying with the law, and keep a special box for complaints and proposals. Institutions carrying out child care and protection activities ensure the safety of a child in compliance with the safety rules established by the legislation of the Republic of Armenia.

169. Institutions engaged in child care and protection activities ensure, in accordance with the legislation of the Republic of Armenia, protection of children from:

(a) Psychological and physical violence, including sexual exploitation and corruption;

- (b) Cruel treatment;
- (c) Labour exploitation;
- (d) Crimes;
- (e) Negligence and injustice;
- (f) Substances hazardous to health and life-threatening conditions.

170. When persons acting on behalf of a child (parents not deprived of parental rights or legal representatives, relatives) file a complaint against unlawful actions of the staff of the institution, institutions engaged in child care and protection undertake adequate measures for the protection of the right of the child.

171. Institutions engaged in child care and protection must maintain a register for recording alleged or established cases of violence against or among children, and for reporting to the competent authorities on such cases.

172. There are four boarding houses operating under the authority of the Ministry of Labour and Social Issues of the Republic of Armenia; three of them are of general type (boarding house of Nork in Yerevan; No. 1, and Gyumri boarding house for the elderly and disabled people), and one of them is specialised (neuropsychological boarding house). The neuropsychological boarding house in Vardenis and Gyumri boarding house for the elderly and disabled people came under the authority of the Ministry of Labour and Social Issues of the Republic of Armenia pursuant to the Decision of the Government of the Republic of Armenia No. 635-N of 29 April 2004; formerly they were under the authority of marzpetaran (governor's office). The neuropsychological boarding house in Vardenis is unique in the Republic, where chronically mentally ill persons, whose treatment is no longer effective and who need only care and service, are housed. There are another three non-state boarding houses in the Republic: "Vanadzor House for the Elderly," "Satenik" boarding house in Abovyan, and "Artsvabuyin" boarding house in Syunik. Around 1,090 retirees are housed in the above-mentioned seven boarding houses, 1,010 of which are housed in the boarding houses that are within the structure of the Ministry. According to the information provided by the boarding houses, no cases of violence against the elders and disabled persons have been recorded so far.

### **III. Additional information on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

#### **A. The national mechanism provided for in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

173. The National Assembly of the Republic of Armenia ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 31 May 2006, which entered into force on 14 October 2006. According to article 17 of the Protocol, the Republic of Armenia has undertaken to maintain, designate or establish, at the latest one year after ratification thereof or accession thereto, one or several national preventive mechanisms for the prevention of torture at the domestic level.

174. On 11–12 December 2007, a seminar-discussion was held in the Office of the Human Rights Defender (Defender) of the Republic of Armenia with the participation of non-governmental organisations, including the representatives from the organisations which

are involved in the Public Monitoring Groups of the Ministry of Justice and the Police of the Republic of Armenia. The representatives of NGOs suggested discussing the idea of establishing a joint mechanism including the Defender and NGOs.

175. In 2008, the National Assembly of the Republic of Armenia adopted a Law on Making a Supplement to the Law of the Republic of Armenia on the Human Rights Defender, which proclaimed the Defender as the national preventive mechanism provided for in the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

176. Following the supplements to the Law, the Office of the Human Rights Defender has undertaken to establish a cooperation framework with NGOs. A number of meetings with the representatives of NGOs, as well as seminars with the participation of international experts were held. Cooperation formats were discussed, and further steps were identified.

## **B. Public monitoring groups**

177. Having regard to article 47 of the Law of the Republic of Armenia on the Custody of Arrestees and Remand Prisoners, as well as to article 21 of the Penitentiary Code of the Republic of Armenia, the procedure for carrying out public monitoring in the penitentiary establishments and bodies, as well as the composition of the Public Monitoring Group carrying out such monitoring was approved by the Order of the Minister of Justice of the Republic of Armenia No. QH-66-N.

178. Public monitoring in penitentiary establishments and bodies under the Ministry of Justice of the Republic of Armenia is carried out by the Public Monitoring Group. The Public Monitoring Group is a monitoring body dealing with the issues of respect for the rights and freedoms of persons held in remand facilities and correctional establishments of the Penitentiary Service (prisoners), as well as of persons under the control of penitentiary bodies.

179. The goals of the activities of the Group are: to conduct public monitoring of protection of the rights of prisoners and persons under the control of penitentiary bodies; to improve the working and living conditions for prisoners in penitentiary establishments; to report to the public on the issues relating to the penitentiary service; to launch activities aimed at the detection and prevention of human rights violations in the Penitentiary Service, and numerous other tasks.

180. The composition of the Group is approved by the Order of the Minister of Justice of the Republic of Armenia based on the relevant documents submitted by the candidate organisation. Preference is given to organisations that were involved in the implementation of the above-mentioned objectives or human rights protection over the past year.

181. The Group may consist of no less than seven and no more than twenty-one persons. Each non-governmental organisation may have only one representative in the Group. The Group operates on a voluntary basis. The Group currently consists of eleven members.

182. The Group may, where appropriate, involve relevant qualified experts in its activities. Upon the motion of the Group, the Ministry of Justice of the Republic of Armenia issues a temporary pass for the expert to visit penitentiary establishments and bodies.

183. Members of the Group are entitled to free access to penitentiary establishments and bodies, to get familiar with the contents of various documents, including, upon the consent of a prisoner or a person under the control of penitentiary bodies, with their personal files and correspondence, except for confidential documents, to get familiar with the situation in



the establishment, as well as to meet prisoners and persons under the control of penitentiary bodies.

184. The Group must visit each penitentiary establishment at least once a year. The list of visits of the Group in February 2008–May 2009 is provided below.

	<i>Total</i>	<i>"Nubarashen"</i> <i>penitentiary</i>	<i>"Yerevan Kentron" PI</i>	<i>"Artik" penitentiary</i> <i>"Vanadzor"</i> <i>penitentiary</i>	<i>"Vardashen"</i> <i>penitentiary</i>	<i>"Goris" penitentiary</i>	<i>"Abovyan" penitentiary</i>	<i>"Erebuni" penitentiary</i>	<i>"Sevan" penitentiary</i>	<i>"Kosh" penitentiary</i> <i>"Hospital for Convicts"</i> <i>penitentiary</i>	<i>"Meghri" penitentiary</i>	<i>"Hrazdan" penitentiary</i>		
Total	40	11	4	1	2	6	1	3	2	2	1	4	2	1
December 2008	6	3	2	-	-	-	-	-	-	-	-	1	-	-
January 2009	6	2	-	-	-	1	-	1	1	-	-	1	-	-
February 2009	8	1	-	1	1	-	1	-	-	1	1	-	1	1
March 2009	11	2	1	-	1	4	-	1	1	-	-	1	-	-
April 2009	6	2	1	-	-	-	-	1	-	1	-	-	1	-
May 2009	3	1	-	-	-	1	-	-	-	-	-	1	-	-

185. Monitoring is conducted through visiting penitentiary establishments and bodies, and submitting reports to the Minister of Justice of the Republic of Armenia and to the public based on these visits. Three types of reports (progress reports, annual reports and urgent reports) are submitted, in regard with which the Ministry of Justice of the Republic of Armenia presents its comments.

186. Progress reports may cover specific cases of violation of the rights of prisoners and persons under the control of penitentiary bodies, as well as cases when the penitentiary establishments and bodies hinder the exercise of the Group's powers. Urgent reports cover facts, conclusions on gross violations of human rights detected in the Penitentiary Service that require urgent solution.

187. All Group members sign under the decision on approving progress or annual reports; in addition, where one of the Group members disagrees to any of the points in the report approved by the decision, a relevant note is made to that effect or an individual opinion is attached to the report.

188. In February 2008–May 2009 the Group submitted one annual report, one progress report and three urgent reports.

189. On 10 March 2006, a Public Monitoring Group for the detention facilities under the Police of the Republic of Armenia was formed pursuant to the Order of the Head of the Police of the Republic of Armenia of 14 January 2005 on Approving the Rules of Procedure for the Public Monitoring Group for the Detention Facilities under the Police of the Republic of Armenia.

190. According to this Rules of Procedure, the Public Monitoring Group for detention facilities under the Police of the Republic of Armenia (hereinafter referred to as detention facilities) is a monitoring body dealing with the protection of rights and freedoms of persons detained in detention facilities.

191. The Group consists of no less than seven and no more than twenty one persons. Furthermore, each non-governmental organisation may have only one representative in the Group. The Group currently consists of nine members.

192. With a view to carrying out its activities, the Group members have the right to free access to detention facilities; to meet persons detained in detention facilities; to get familiar with the internal legal acts regulating the activities of detention facilities, with personal file and correspondence of a person detained in a detention facility upon his/her consent, except for documents constituting state or official secret.

193. In this case, the Group member holds the office in the Group for a term of three years and is issued a document certifying his/her membership.

194. Members of the Group may visit detention facilities on any day, including non-working days. Members of the Group may, as a rule, meet a person detained in the detention facility in private or, at the wish of the Group member, in the presence of a representative from the administration of the detention facility.

195. To ensure fully-fledged monitoring, the Group members must visit no less than half of all detention facilities under the Police of the Republic of Armenia at least once a year.

196. The Group conducts monitoring through visiting detention facilities and submitting reports to the Head of the Police of the Republic of Armenia and to the public based on these visits.

197. The Group submits two types of reports (progress and annual), in regard with which the Police of the Republic of Armenia provides its comments:

(a) Progress reports cover specific cases on violation of rights of persons detained in detention facilities, as well as on hindering the exercise of the Group's powers;

(b) Annual reports cover general situation in detention facilities, main problems and recommended solutions, outcomes of the activities conducted by the Group, etc.

198. During its activities the Group has presented 28 progress reports and 2 annual reports (2006 and 2008).

199. In recent three years, a number of large-scale reforms were implemented in detention facilities under the Police of the Republic of Armenia as a result of the activities of the Group. Some detention facilities were closed due to the lack of relevant conditions. Conditions of some detention facilities were improved.

### **C. Specifics of detaining female convicts in penitentiary establishments, and their total number as of March 2009**

200. The total number of female convicts in the Republic of Armenia currently accounts for 121; 114 of them are in "closed type" and 7 in "open type" penitentiary establishments. As of March 2009, there was only one juvenile female convict.

201. Pursuant to article 68 (1) of the Penitentiary Code of the Republic of Armenia, women are held separately from men in correctional establishments.

202. Article 117 of the Penitentiary Code of the Republic of Armenia prescribes the procedure for deferment of the serving of sentence and releasing from the sentence. Pursuant to part 1 of the said article, if the convict is a pregnant woman or has a child under the age of three or suffers from a grave disease preventing the serving of the sentence, as well as where further serving of the sentence may cause serious consequences for the convict or the family members thereof (fire or other natural disasters, grave illness or death

of the sole family member capable to work, or other exceptional circumstances), the motion on deferment of the serving of sentence or releasing from the sentence is filed with the court by the head of the body or establishment executing the sentence. The motion shall be accompanied by the profile of the convict, the consent of a relative on placement of the convict and her child and providing them with accommodation and appropriate living conditions, or a statement certifying that the convict has an accommodation and appropriate living conditions to have the child reside with her, or medical conclusion on pregnancy, or a copy of birth certificate of the child, or statements on other circumstances, as well as the personal file of the convict.

203. Article 27 of the Law of the Republic of Armenia on the Custody of Arrestees and Remand Prisoners determines the specifics of holding women and juveniles under arrest or remand detention.

204. According to this article, female and juvenile arrestees or remand prisoners are provided with improved living conditions in detention facilities and remand facilities.

205. Female and juvenile arrestees and remand prisoners enjoy the right to daily walks of no less than two hours, during which they have an opportunity to do some physical exercises.

206. Female remand prisoners have the right to have their children under the age of three reside with them while they are in custody.

207. Female arrestees or remand prisoners who are pregnant or have their children residing with them are provided with appropriate living conditions, as well as specialised medical services.

208. It is prohibited to place pregnant women or women with children in a disciplinary cell as a sanction.

209. In case of illness, improper performance of parental duties, demonstrating cruel treatment against the child, as well as committing violations of internal regulations, the administration of the detention facility or remand facility may file a motion with the court on depriving the remand prisoner of parental rights and (or) placing the child in the care of other persons.

210. Female pregnant arrestees or remand prisoners, nursing mothers, juveniles, as well as ill arrestees or remand prisoners are provided with special handout food, the menu and minimum rations of which are determined by the Government of the Republic of Armenia (article 43 of the Law).

211. According to article 31 of the Law, arrestees are put in solitary confinement in detention facilities, and the following remand prisoners are held separately in remand facilities:

- (a) Men from women;
- (b) Juveniles from adults;
- (c) First-time remand prisoners from those who have previously served a sentence in the form of imprisonment, etc.

212. When releasing from custody or remand detention, persons who need care due to the condition of their health, as well as pregnant women, women with infants, and juveniles, the administration of the detention facility or remand facility gives prior notice on their release to their close relatives or other persons. In case of absence of close relatives, the necessary assistance is provided by the administration of the given establishment.

213. The above-mentioned persons are transferred to their places of residence accompanied by close relatives or other persons or an officer of the given establishment (art. 43).

#### **D. Judgements of the European Court on violations of article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms**

214. So far the European Court of Human Rights has rendered three judgments against Armenia finding a violation of article 3 of the European Convention on Human Rights (“No one shall be subjected to torture or to inhuman or degrading treatment or punishment”):

(a) In respect of the case of Mkhitarian v. Armenia (Application No. 22390/05), the Court delivered its judgment on 2 December 2008, where it found that there had been a violation of article 3, and article 6 §§ 1 and 3 (a)-(d) of the Convention, as well as of article 2 of Protocol No. 7;

(b) In respect of the case of Tadevosyan v. Armenia (Application No. 41698/04), the Court delivered its judgment on 2 December 2008, where it found that there had been a violation of article 3, and article 6 §§ 1 and 3 (b)-(d) of the Convention, as well as of article 2 of Protocol No. 7;

(c) In respect of the case of Kirakosyan v. Armenia (Application No. 31237/03), the Court delivered its judgment on 2 December 2008, where it found that there had been a violation of article 3 of the Convention.

215. All judgments of the European Court of Human Rights are envisaged to be executed in the form of monetary compensation in August 2009.

#### **IV. Information on the measures undertaken for the implementation of the conclusions and recommendations of the Committee against Torture on the second periodic report of the Republic of Armenia**

216. Below is presented information on the implementation of the recommendations in point 39 of document A/56/44 of the Committee against Torture, according to subparagraphs.

##### **Response to paragraph 39 (a) of the report of the Committee against Torture (A/56/44)**

217. See part II, paragraphs 12–14, of the report.

##### **Response to paragraph 39 (b) of the report of the Committee against Torture**

218. See part II, paragraphs 54, 57–58, 93–94 and 108–129 of the report.

##### **Response to paragraph 39 (c) of the report of the Committee against Torture**

219. By the Decision of the Government of the Republic of Armenia No. 1015 of 19 October 2001, the institutions under the authority of the Department of Execution of Criminal Sanctions of the Ministry of Interior Affairs of the Republic of Armenia were reorganised into penitentiary establishments operating under the authority of the central agency of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia,

and a Penitentiary Service was established within the system of the Ministry of Justice of the Republic of Armenia, which includes the Penitentiary Department and the establishments under its authority.

220. The objective of the transfer to the authority of the Ministry of Justice of the Republic of Armenia of the Penitentiary Department and the establishments under its authority was to improve the whole system of the penitentiary service, as well as contribute to the improvement of conditions of detainees, and ensure the highest protection of their rights.

221. The Law of the Republic of Armenia on the Custody of Arrestees and Remand Prisoners enacted on 7 March 2002 pursues the same goal. The Law defines the general principles, conditions and procedures for holding arrestees or remand prisoners under arrest or in remand detention in accordance with the Criminal Procedure Code of the Republic of Armenia, the rights of arrestees and remand prisoners, guarantees for ensuring their rights, as well as their duties, and the procedure for releasing these persons from arrest or remand detention.

222. This Law prohibits physical violence, as well as inhuman or degrading actions against arrestees or remand prisoners (art. 2).

223. The Law thoroughly regulates also the procedures for transferring persons held in remand facilities to detention facilities, procedure for transportation of remand prisoners, internal regulations of detention facilities and remand facilities, defines the legal status of arrestees and remand prisoners, their rights, as well as guarantees for ensuring them.

224. In addition to the above-mentioned legal acts, the National Assembly of the Republic of Armenia adopted the Penitentiary Code of the Republic of Armenia on 24 December 2004. It is aimed at defining the procedure for and terms of executing criminal sentences and imposing compulsory medical measures combined with execution of the sentence, as well as ensuring necessary conditions for correction of the convict, and protecting the rights and freedoms of the convict.

225. Pursuant to article 6 of the mentioned Code, the execution of a sentence, as well as imposition of compulsory medical measures combined with execution of the sentence, must not be accompanied by physical violence against a person, as well as such actions which can lead to socio-psychological degradation of a person.

226. No person, deprived of liberty upon a judgment, shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. No circumstance may serve as a ground for justifying torture or other cruel, inhuman or degrading treatment or punishment.

227. Thus, the establishment of the Penitentiary Department and the transfer of the establishments under its authority to the Ministry of Justice of the Republic of Armenia, as well as the above-mentioned legislative reforms serve as significant pre-conditions for establishing an independent monitoring system in detention facilities.

#### **Response to paragraph 39 (d) of the report of the Committee against Torture**

228. Some 678 crimes were recorded in the Armed Forces of the Republic of Armenia in 2007, 12 of which were cases of violence with fatal outcomes. 9 of them were cases of murder, 6 of which were committed by the adversary, 3 by comrade-in-arms, and 3 were cases of violence causing suicide.

229. During the given period, the Armed Forces of the Republic of Armenia recorded 76 cases of criminal violations of statutory relations, 44 of which resulted in the institution of a criminal case. 33 of them were sent to court upon indictments, which resulted in the conviction of 37 persons.

230. Eighty cases of abuse were recorded in 2007, 50 of which resulted in the institution of a criminal case. 36 of them involving 43 servicemen were sent to court upon indictments, which resulted in the conviction of 29 persons. 32 servicemen were arrested for abuse, as well for criminal incidents involving non-statutory relations. Remand detention was imposed on 41 persons as a measure of restraint.

231. In 2007, 34 criminal cases were instituted with regard to cases with fatal outcome recorded in the Armed Forces of the Republic of Armenia. 10 of them involving 18 persons were sent to court upon indictments, from which 7 cases resulted in the conviction of 9 persons. 15 persons were arrested in connection with criminal cases instituted with regard to incidents with fatal outcomes, and remand detention was further imposed on them as a measure of restraint.

232. In 2007, the Ministry of Defence of the Republic of Armenia planned and implemented complex measures to reduce, to the extent possible, the number of cases of murder, suicide, violent actions, emergency cases and accidents resulting from non-statutory relations. The activities of the Supernumerary Groups for the Prevention of Suicides and Mutilations were continuously monitored, and adequate measures were undertaken to increase their effectiveness. Due attention was paid to educational and socio-psychological activities during combat duty, guard and garrison service.

233. In 2007 the cooperation with the Ministry of Defence of the Republic of Armenia with non-governmental organisations was enhanced. During one year, 14 visits to 71 military units, as well as to military hospitals were made jointly with the representatives from the coordinating council "Zinvor" of non-governmental organisations, which unifies about 51 non-governmental organisations.

234. During 11 months of 2008, 773 crimes were recorded in the Armed Forces of the Republic of Armenia, from which 512 military crimes, and 261 general crimes. During 11 months of 2008, 66 cases of death were recorded, as a result of which 69 servicemen died, including 25 people from disease, 14 people from car accidents, 2 people from violation of rules of handling of weapons, 8 people from casualty, 2 people from exposure of mine, 9 people from murder, whereas 3 people were murdered by the adversary, and 8 people committed suicide. Moreover, 2 cases of murder and 2 cases of suicide occurred due to violence and non-statutory relations.

235. During 11 months of 2008, the Armed Forces of the Republic of Armenia recorded 84 cases of criminal violations of statutory relations. 154 criminal cases were instituted in connection with death, abuse, criminal violations of non-statutory relations; 85 servicemen were convicted. In regard with the mentioned cases 12 servicemen were arrested, remand detention was imposed on 25 persons as a measure of restraint.

236. In 2008 the following measures were undertaken to reduce non-statutory relations in the Armed Forces of the Republic of Armenia:

- Oversight proceedings are filed on all servicemen having committed mutilation, execution of which is delegated to more skilled employees
- With a view to continuously keeping the conditionally sentenced serviceman within the operative sight, preventive oversight proceedings are filed
- Prior to conscription, preventive measures towards servicemen are carried out through "Personal Record Books"
- The heads of the units of the Military Police Department of the Ministry of Defence of the Republic of Armenia, jointly with commanders of the military units of increased criminogenic environment, develop plans for preventive measures and carry out preventive measures

### **Response to paragraph 39 (e) of the report of the Committee against Torture**

237. Article 11 of the Judicial Code of the Republic of Armenia adopted on 21 February 2008 by the National Assembly of the Republic of Armenia covers the independence of the judge and the autonomy of the court.

238. Thus, according to this article, in administering justice and performing other powers provided for by law, the judge is independent, is not accountable to anyone and, *inter alia*, is not bound to give any explanation, except for the cases envisaged by law. It is prohibited to interfere in the activities of a judge in a manner not envisaged by law. Any such act is subject to criminal prosecution.

239. Section 3 of the same Code defines also the procedure for the formation of the Council of Justice and its powers, article 106 of which relates to the Disciplinary Committee of the Council of Justice. The said Committee consists of three members of the Council of Justice; two of them are two judge members and one is academic lawyer. The Disciplinary Committee is formed by the principle of rotation. The Disciplinary Committee is entitled to institute disciplinary proceedings against a judge or chairperson of the courts of first instance and of appeal, and, upon the request by the Ethics Committee of the Council of Court Chairmen, to institute disciplinary proceedings against a judge of the Court of Cassation, chamber chairperson and the Chairperson of the Court of Cassation, as well as to file motions to that effect with the Council of Justice.

240. The power to subject a judge to disciplinary liability is vested in the Council of Justice on the following grounds: an obvious or grave violation of a provision of substantive law in the administration of justice; an obvious and grave violation of a provision of procedural law; regular violations or a grave violation of work discipline; regular violations or a grave violation by the judge of the Code of Conduct.

241. The power to institute disciplinary proceedings is vested in the Minister of Justice, the Disciplinary Committee of the Council of Justice and the Chairperson of the Court of Cassation only against a chamber judge and chamber chairperson of the Court of Cassation.

242. Disciplinary proceedings may be initiated where a decision of the Cassation Court is available, which confirms that an obviously illegal judicial act was rendered in the administration of justice when resolving a case or matter on the merits, or the judge committed an obvious and grave violation of the rules of procedural law in the administration of justice.

243. The reasons for instituting disciplinary proceedings also include: an application by a person; a communication from an official of a state or local self-government body; a motion filed by the Ethics Committee of the Council of Court Chairpersons; a judicial act issued by the international court with participation of the Republic of Armenia, which establishes that a court of the Republic of Armenia, while examining the case concerned, committed a violation of human rights and fundamental freedoms prescribed by the relevant international treaty of the Republic of Armenian.

244. According to article 157 of the Judicial Code of the Republic of Armenia, the Council of Justice may, as a result of reviewing the matter related to the disciplinary liability of a judge, impose any of the following disciplinary sanctions on the judge:

- (a) Warning;
- (b) Reprimand, which is combined with depriving the judge of 25% of his/her salary for a period of six months;
- (c) Severe reprimand, which is combined with depriving the judge of 25% of his/her salary for a period of one year;

(d) Filing a motion with the President of the Republic to terminate the powers of a judge.

245. The latter shall be imposed where a grave disciplinary offence or periodic disciplinary offences committed by the judge render him/her incompatible with the position of a judge.

246. When examining matters of subjecting a judge to disciplinary liability, the Council of Justice acts as a court. The decision is made in the consultation room. After declaring the completion of case examination, the Council of Justice declares the venue and date of pronouncing the decision. Decisions of the Council of Justice are published in the Official Journal of the Republic of Armenia and on the official website of the judiciary of the Republic of Armenia ([www.court.am](http://www.court.am)).

247. As to holding a judge criminally liable for the errors made while rendering a judgment, a judge may be subjected to criminal liability in accordance with article 352 of the Criminal Code of the Republic of Armenia only for rendering an obviously unjust judgment or other judicial act with mercenary purposes or other personal motives. The mentioned act is punishable by a fine in the amount of 300-fold to 500-fold of the minimum salary, or by deprivation of the right to hold certain positions or to engage in certain activities, or by imprisonment for a term of 2 to maximum 7 years.

248. The above-mentioned forms of disciplinary liability provided for by the legislation of the Republic of Armenia, as well as the above-mentioned article on holding judges criminally liable, are not aimed at weakening the judiciary, but at ensuring the principle of equality of all before the law and elimination of impunity, which is one of the cornerstones of building a democratic state.

249. In 2006 the Council of Court Chairpersons of the Republic of Armenia approved the anti-corruption strategy for the judiciary system of the Republic of Armenia, the annex of which defines that the remuneration of the judge should be sufficient for independent, just and effective implementation of the broad powers vested in the judge. The Law of the Republic of Armenia on Official Rates of Remuneration of Senior Officials of Legislative, Executive, and Judicial Authorities has also been amended, increasing the official rate of remuneration of judges.

**Response to paragraph 39 (f) of the report of the Committee against Torture**

250. See part II, paragraphs 81–91, of the report.

**Response to paragraph 39 (g) of the report of the Committee against Torture**

251. Death penalty was abolished in Armenia in 2003 by the adoption of the new Criminal Code, which was also enshrined in article 15 of the Constitution of the Republic of Armenia proclaiming that no one shall be sentenced to death or executed. In addition, on 9 September 2003 the Republic of Armenia ratified the Protocol No. 6 to the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of death penalty, and on 19 May 2006 signed the Protocol No. 13 to the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of death penalty in all circumstances.

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