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**DH-DD(2015)435**

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Meeting: 1230 meeting (9-11 June 2015) (DH)

Item reference: Action plan (16/04/2015)

Communication from Armenia concerning the cases of Ashot Harutyunyan and Piruzyan against Armenia (Applications No. 34334/04, 33376/07)

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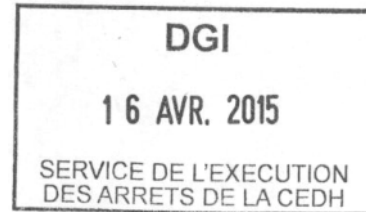
Référence du point : Plan d'action

Communication de l'Arménie concernant les affaires Ashot Harutyunyan et Piruzyan contre Arménie (Requête n° 34334/04, 33376/07) (**anglais uniquement**)

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**The Government of the Republic of Armenia  
Action Plan**

**ASHOT HARUTYUNYAN GROUP OF CASES  
(Supervised by the Committee of Ministers under the enhanced procedure)**

Department for Relations with the European Court of Human Rights  
Ministry of Justice of the Republic of Armenia  
16 April 2015

## EXECUTION OF JUDGMENTS IN ASHOT HARUTYUNYAN GROUP OF CASES

*Case of Ashot Harutyunyan v. Armenia* (no. 34334/04, judgment of 15/06/2010, final on 15/09/2010)

*Case of Piruzyan v. Armenia* (no. 33376/07, judgment 26/06/2012, final on 26/09/2012)

### I. INTRODUCTORY CASE SUMMARY

1. The case of *Ashot Harutyunyan v. Armenia* concerned inhuman and degrading treatment of the applicant who, suffering from various medical conditions was denied adequate medical assistance and was kept in a metal cage during the appeal proceedings. On 20 January 2009 the applicant died in prison from a heart attack.

2. The European Court of Human Rights (hereinafter, the Court) found that inadequate medical care in detention facility and use of metal cage during appeal hearings amounted to inhuman and degrading treatment of the applicant (two violations of Article 3 of the European Convention on Human Rights; hereinafter, the Convention)

3. In *Piruzyan v. Armenia* case the applicant was arrested and detained on a charge of banditry. During court hearings he was placed and kept in a metal cage. In its judgment the Court reiterated that placing and keeping the applicant in a metal cage during court hearings without any real security risk (his absconding or resorting to violence) amounted to degrading treatment (violation of Article 3 of the Convention)<sup>1</sup>.

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<sup>1</sup> In *Piruzyan v. Armenia* case the Court also found violations of Articles 5 § 1, 5 § 3 and 5 § 4. As the violations of mentioned Articles are supervised under the *Poghosyan* group of cases, the measures taken will be introduced in more detail in the respective subsequent Action Report.

## II. INDIVIDUAL MEASURES

### a) Payment of just satisfaction<sup>2</sup>

<i>Name of the Case</i>	<i>Pecuniary Damage</i>	<i>Non-Pecuniary Damage</i>	<i>Cost and Expenses</i>	<i>Total</i>
<i>Ashot Harutyunyan</i>	-----	EUR 16,000	<i>None claimed by the applicant</i>	EUR 16,000 Paid on: 10.12.2010
<i>Piruzyan</i>	-----	EUR 8,000	EUR 18	EUR 8,018 Paid on: 14.11.2012

### b) Other individual measures

4. In *Ashot Harutyunyan* group of cases no other individual measures seem necessary given the findings of the Court and the award of the just satisfaction covering the damage sustained. Furthermore, the applicants did not avail themselves of the right to apply for reopening of the cases at the national level.

## III. GENERAL MEASURES

### a) Dissemination of information about the judgments

5. The judgments in *Ashot Harutyunyan v. Armenia* and *Piruzyan v. Armenia* cases were translated and published on the official website of the Ministry of Justice (*Ashot Harutyunyan* judgment on 15 September 2010<sup>3</sup>; *Piruzyan* judgment on 31 October 2013<sup>4</sup>). Considering the importance of preventing the further similar violations, as well as effectively implementing the Court's judgments, the Government also ensured the dissemination of the judgments to the relevant authorities involved.

### b) Education and professional trainings

6. In view of facilitating the implementation of the Court's judgments and proceeding on a clear vision of the right to health care in prison and detention facilities, the Government actively implements the Convention standards awareness-raising also through conducting relevant trainings.

7. The Government stresses that Court's judgments in *Ashot Harutyunyan* group of cases, along with the Court's case-law, are included as a component of the curriculum of law degree programmes in Armenian universities, as well as qualification-based training programmes organized for public officials on how to fulfil the requirements under the Convention and other related issues.

<sup>2</sup>The payment receipts have been submitted previously.

<sup>3</sup><http://moj.am/legal/view/article/89/>

<sup>4</sup><http://moj.am/legal/view/article/556/>

8. For instance, in May 2011, representatives of the prison administrations and prison medical staff from Armenia have participated in a multilateral meeting on *Improving detention conditions and health care in prisons* in Strasbourg. The participants became acquainted with the standards of the Council of Europe and European Convention for the Prevention of Torture regarding detention conditions, the provision of health care in prisons and medical ethics and best practices in Europe. Through Council of Europe Secretariat's presentations participants also became acquainted with standard-setting in the field of prisons, the role of the European Committee for the Prevention of Torture (CPT) in monitoring of prisons and recent case law of the Court regarding detention conditions and health care in prisons.

9. In order for healthcare services in prisons and detention facilities to meet the standard in the wider community and ensuring the inmates' and detained persons' right to have access to the same range and standard of treatment as any other potential patient, RA Penitentiary Service in cooperation with the Council of Europe, in March 2014 has conducted trainings for medical personnel of penitentiary institutions. The trainings were organized as part of the Joint Programme between the European Union and the Council of Europe *Reinforcing the fight against ill-treatment and impunity*. The main part of the agenda was dedicated to the role of the medical personnel working with inmates; it also covered such aspects as the medical perspective of ill-treatment and torture, epidemiology, medical ethics and relevant international standards, medical assessment and documentation of evidence of ill-treatment etc.

10. For the purpose of ensuring effective application of the Convention by other competent representatives of the prison administrations and prison medical staff, *Ashot Harutyunyan* and *Piruzyan* cases, along with the Court's case-law, are also included in the training curriculum of the Law Institute of Ministry of Justice,<sup>5</sup> in Public Service Training Courses, as well as in the respective curriculum of the newly established Justice Academy.<sup>6</sup> It is also worth to mention that special course on application of Article 3 of the Convention has been designed and is taught at the Justice Academy.

11. In cooperation with the Council of Europe, a special project *Strengthening the application of the European Convention on Human Rights and the case law of the European Court of Human Rights in Armenia* has been launched.<sup>7</sup> One of the components of this project is to enable and encourage the Cassation Court to apply relevant principles of the Convention and the Court's jurisprudence. For this purpose, judges and their assistants are being provided with relevant training seminars and workshops.

12. In the framework of the above-mentioned project a two-day workshop on enhancing skills on specific aspects of Articles 3 and 5 of the Convention has been organized for the professionals from the Ministry of Justice, the Prosecutor's Office and the Judicial Department. Specially invited Council of Europe international experts Mr. Juan Carlos DA SILVA and Mr. Eric SVANIDZE presented recent developments concerning the mentioned articles. The workshop was aimed at strengthening the practitioners' knowledge and skills on specifics of application of Article 3 and 5 at national level. In particular, substantive and procedural aspects of Article 3 in line with standards and guidelines of European Convention for the Prevention of Torture have been discussed.

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<sup>5</sup>The Law Institute provides trainings for penitentiary officials and civil servants.

<sup>6</sup>Besides the trainings, the Justice Academy also provides separate compulsory courses for acting judges and candidates for judges, prosecutors and candidates for prosecutors, investigators, as well as other public officials

<sup>7</sup>[http://www.coe.int/t/dgi/hr-natimplement/projects/armenia\\_stengthening\\_application\\_ECHRandCaseLaw\\_en.asp](http://www.coe.int/t/dgi/hr-natimplement/projects/armenia_stengthening_application_ECHRandCaseLaw_en.asp)

c) Measures taken to improve State legislation

13. Following the Court's judgments in respect of Armenia and considering the observations and recommendations made by the CPT in its periodic reports, rudimentary reforms in the field of criminal justice are initiated.

14. A series of significant amendments to the existing RA Criminal Code have been effectuated and pursuant to the RA President's Decree of 30 June 2012, No. NK-96-A, on *Approving the 2012-2016 Strategic Programme of Legal and Judicial Reforms in the Republic of Armenia and the List of Measures Deriving from the Programme*, the process of developing the new draft Criminal Code has been launched. It is envisaged to have the draft by the end of July 2015. Furthermore, the new draft Criminal Procedure Code is finalized and is already on the RA Parliament's agenda. It is worth to mention that the new draft Criminal Procedure Code seeks to promote many internationally recognized principles concerning the investigation mechanisms and observance of human rights in the course of criminal proceedings.

15. For the purpose of ensuring the effectiveness of the mentioned fundamental legislative acts and bringing the field in total compliance with the international standards, large scale amendments to the existing penitentiary legislation have been initiated. The ultimate objective of the amendments is to prepare inmates for release and afterwards integrate them into the society. According to the above mentioned ultimate objective, consideration has been given to the diversity of personal characteristics to be found among inmates, and account taken of them to make individual plans for the implementation of the sentence (individualization principle). Thus, individual sentence planning should start following the entry into the prison and be reviewed at regular intervals and modified if necessary (considering the risks and needs assessment). Moreover, the new draft Penitentiary Code is in the process of being drafted. The deadlines envisaged are: May 2015- Concept Paper; December 2015- submission to Ministry of Justice working group.

16. The process of legislative amendments has started before the delivery of the Court's judgment in *Ashot Harutyunyan v. Armenia* case. In order to provide sufficient safeguards for the effective access to requisite medical assistance in detention, the Government, by its *Decree No. 825-N of 26 May 2006*, has adopted a new regulation on the procedure of providing medical care to the detained persons and convicts by means of providing access to medical institutions and involving their staff members in the process of providing health assistance and medical services. The decree, among the others stipulates:

- a. while in custody, inmates shall be able, inter alia, to have access to a doctor at any time, irrespective of their detention regime, and without undue delay;
- b. a prison health care service shall provide qualified regular out-patient consultations, emergency treatment and hospital-type unit with beds;
- c. in addition to proper medical treatment and nursing care, a prison health care service shall provide diets, physiotherapy, rehabilitation.

17. The Decree also duly regulates the issue of keeping the medical files provided that each patient shall have his own file which despite the diagnostic information, will contain details on ongoing record of the patient's evolution and of any special examinations he has undergone.

18. Following the Court's judgment and taking note of the European Prison Rules and their role in guaranteeing minimum standard of humanity and dignity in prisons, the Armenian authorities, among the other rights of the accused, have paid particular attention to the right to medical examination, to invite a doctor, as well as to the overall improvement of the state of medical care in

the prisons and detention facilities. In particular, the new draft on Criminal Procedure Code prescribes that in case of arrest or detention, the accused has the right to demand a medical examination and receive the respective report at no cost, as well as to invite a doctor of his choosing and to communicate with him without any obstacles, including without any visual or auditory surveillance of the prison (detention) administration (Article 43).

19. The new draft Criminal Procedure Code also envisages that in addition to any medical examination carried out by a doctor called by the police authorities, an arrested person, prior to acquiring relevant rights of an accused, shall be granted the right to request a medical examination by a doctor of his choice (Article 110). As an additional guarantee the new draft Criminal Procedure Code also stipulates that if in the presence of evident bodily harm the court finds that the accused was denied requisite medical care or the investigator fails to present the court reasonable justification as to the causes of the harm, the investigator's motion to prolong the term of detention shall be rejected (Article 295).

20. As what to the use of metal cage in a courtroom, the Armenian authorities insure that following the circumstances of the case at issue, as a result of reforms cages had been removed from all the Armenian courts.

*d) Measures taken to improve the provision of the health care assistance in prisons*

21. Acknowledging that respect for fundamental rights of inmates entails the provision to inmates of health care equivalent to that provided to the community, the Government, despite the legislative measures, has undertaken practical measures for reorganizing and regulating prison health care system in Armenia.

22. For instance, the Penitentiary Service is taking constant measures to enhance transparency and effectiveness of Service. In particular, at the beginning of October, 2014, the web-site of the Penitentiary Service at [www.ced.am](http://www.ced.am) has been launched. The latter gives broad opportunities to inmates, their relatives and all interested people to get useful and necessary information about inmates' rights, the relevant legal acts and about the penitentiary entities. A free of charge 24/7 hot line at (+374) 10 442273 has been launched within the Penitentiary Service. There is also a free of charge voice portal at (+374) 60 743333 that provides useful and necessary information on inmates' and their relatives' rights and duties, as well as established procedures.

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

24. The Government has initiated the construction of a new prison, "Armavir" penitentiary institution for 1200 inmates. The construction of the first detention block (for 400 inmates), including the premises for the healthcare services, is completed, the cells are equipped and furnished. Currently, approximately 130 inmates serve their sentence in "Armavir" penitentiary institution. It has also to be noted that this new prison will be equipped with new medical

equipment<sup>8</sup> which will satisfy the qualitative requirements for provision of requisite medical assistance to the inmates.

25. Memorandum of Cooperation (hereinafter, the Memorandum) between the Ministry of Justice and Yerevan State Medical University has been signed on 27 January 2015.<sup>9</sup> In line with European Prison Rules order that “medical services in prison shall be organized in close relationship with the general health administration of the community the Memorandum prioritizes the necessity of properly organizing medical aid and services in penitentiary institutions. It also acknowledges the significance of provision of health care services by specially trained and independent from the prison medical and nursing staff professionals.

26. In the framework of implementing the Memorandum, it is envisaged to establish clinical units for prison (penitentiary) medicine or related professions in “Hospital for Convicts” and “Armavir” penitentiary institutions of the Ministry of Justice. The clinical units will pursue the aim of preparing appropriate medical professionals and organizing their practical work with the detained persons and convicts. The trainees studying in mentioned clinical units will be certified to work in healthcare units of the penitentiary institutions and provide counseling and practical assistance to patients undergoing complicated treatment in penitentiary institutions. It is also noteworthy that the cost of the trainings will be covered by the Government.

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

## CONCLUSION

28. Further information and details regarding the state of execution of the judgments will be communicated to the Committee of Ministers.

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<sup>8</sup>It is already partially equipped (*see* Annex 1).

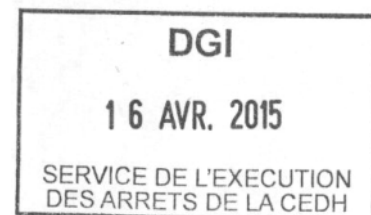
<sup>9</sup>Annex 2



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**BETWEEN THE MINISTRY OF JUSTICE OF  
THE REPUBLIC OF ARMENIA AND "YEREVAN STATE MEDICAL UNIVERSITY  
AFTER MKHITAR HERATSI" State Non-Commercial Organisation**



**MEMORANDUM OF CO-OPERATION**

**MEMORANDUM OF CO-OPERATION**  
**BETWEEN THE MINISTRY OF JUSTICE OF**  
**THE REPUBLIC OF ARMENIA AND "YEREVAN STATE MEDICAL UNIVERSITY**  
**AFTER MKHITAR HERATSI" State Non-Commercial Organisation**

**Yerevan** -----

The Ministry of Justice of the Republic of Armenia represented by the Deputy Minister of Justice of the Republic of Armenia Suren Krmoyan (shall act on the basis of the relevant power of attorney issued by the Minister of Justice of the Republic of Armenia) and "Yerevan State Medical University after Mkhitar Heratsi" State Non-Commercial Organisation represented by the Provost Mikayel Narimanyan (shall act on the basis of the relevant statute);

prioritising the necessity of properly organising medical aid and services for detained persons and convicts in penitentiary institutions of the Ministry of Justice of the Republic of Armenia, the preservation and restoration of health of detained persons and convicts, the significance of preparing the necessary professional workforce providing medical aid and services to detained persons and convicts, the necessity of ensuring the quality and efficiency of medical aid and services, as well as of carrying out scientific and research activities in penitentiary institutions, agree on the following:

**ARTICLE 1**

In accordance with this Memorandum and the legislation of the Republic of Armenia, the Parties agree to establish clinical sites for prison (penitentiary) medicine or related professions in "Hospital for Convicts" and "Armavir" penitentiary institutions of the Ministry of Justice of the Republic of Armenia for the purposes of preparing appropriate workforce and organising their practical work, by implementing the following measures:

(1) introducing a course on prison (penitentiary) medicine in "Yerevan State Medical University after Mkhitar Heratsi" State Non-Commercial Organisation and elaborating a relevant educational programme for this course;

- (2) ensuring the preparation of appropriate workforce in prison (penitentiary) medicine, as well as related professions, and organising educational activities in relation thereto in clinical sites envisaged;
- (3) providing counselling and practical assistance to patients undergoing complicated treatment in penitentiary institutions of the Ministry of Justice of the Republic of Armenia jointly by physician-specialists of university clinics and the Penitentiary Service of the Ministry of Justice of the Republic of Armenia;
- (4) elaborating and implementing other educational programmes in the field of prison (penitentiary) medicine;
- (5) elaborating and implementing training programmes and courses for medical personnel of penitentiary institutions of the Ministry of Justice of the Republic of Armenia;
- (6) ensuring the involvement of appropriate representatives of the Ministry of Justice of the Republic of Armenia in the elaboration and implementation of educational programmes on legal issues related to medical aid and services;
- (7) carrying out other measures stemming from the goals of this Memorandum.

## **ARTICLE 2**

The Parties shall support the development of ties in the field of co-operation envisaged, the preparation of workforce to provide medical aid and services in penitentiary institutions, as well as the raising of qualification and training of specialists.

## **ARTICLE 3**

The Parties shall exchange information on teaching and methodological materials and scientific publications, scientific and experimental conferences and other events in relation to preparation of workforce, raising of qualification and training of specialists.

## **ARTICLE 4**

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The Parties shall ensure the professional preparation of trainees studying in clinical sites for prison medicine established in "Hospital for Convicts" and "Armavir" penitentiary institutions of the Ministry of Justice of the Republic of Armenia by also ensuring the awareness and education of trainees on the rights of medical aid and service providers, their responsibilities in relation to medical sanitary and medical preventive assistance, and on basic legal acts regulating relations in the field.

#### **ARTICLE 5**

Controversies arising in relation to application and interpretation of this Memorandum shall be resolved between the interested Parties through consultations and negotiations.

#### **ARTICLE 6**

Any amendment or supplement to the provisions of this Memorandum must be made by mutual written agreement of the Parties.

#### **ARTICLE 7**

This Memorandum shall enter into force on the date of its signature; it shall be drawn up in two copies in Armenian, one copy for each Party.

<b>First Party</b>	<b>Second Party</b>
<b>"Yerevan State Medical University after Mkhitar Heratsi" State Non-Commercial Organisation (2 Koryun street, Yerevan, Republic of Armenia)</b>	<b>Ministry of Justice of the Republic of Armenia (41/a Halabyan street, Yerevan, Republic of Armenia)</b>

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<hr/> <p><b>Mikayel Narimanyan</b></p>	<hr/> <p><b>Suren Krmoyan</b></p>
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