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Communication from Armenia in the Ashot Harutyunyan group of cases against Armenia (Application No. 34334/04)

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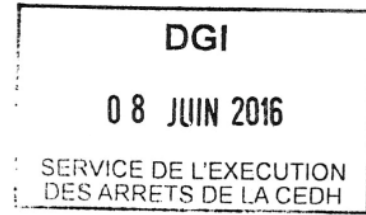
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Référence du point : Plan d'action révisé

Communication de la Roumanie dans le groupe d'affaires Ashot Harutyunyan contre Roumanie (Requête n° 34334/04) (**anglais uniquement**)

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**The Government of the Republic of Armenia
Action Plan¹**

**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
8 June 2016

¹This Action Plan is the updated version of the one submitted on 16 April 2015.

EXECUTION OF JUDGMENTS IN ASHOT HARUTYUNYAN GROUP OF CASES

<i>Case of Ashot Harutyunyan v. Armenia</i>	(no. 34334/04, judgment of 15/06/2010, final on 15/09/2010)
<i>Case of Piruzyan v. Armenia</i>	(no. 33376/07, judgment 26/06/2012, final on 26/09/2012)
<i>Case of Davtyan v. Armenia</i>	(no. 29736/06, judgment 31/03/2015, final on 30/06/2015)

I. INTRODUCTORY CASE SUMMARY

1. The cases of *Ashot Harutyunyan v. Armenia* and *Piruzyan v. Armenia*² concern the placing and keeping the applicants in a metal cage during court hearings (in the Court of Appeal between March and May 2004 in the *Ashot Harutyunyan* case and between March and December 2007 in the *Piruzyan* case) without any real security risk (their absconding or resorting to violence). The European Court of Human Rights (hereinafter, the Court) held that this amounted to degrading treatment (violation of Article 3 of the European Convention on Human Rights (hereinafter, the Convention)).

2. In the *Ashot Harutyunyan v. Armenia* and *Davtyan v. Armenia* cases the applicants suffering from various medical conditions including an ulcer and a heart condition (*Ashot Harutyunyan*) and tumour on the vocal cords (*Davtyan*) were denied adequate medical assistance in a detention facility (from 2003 to 2006) which amounted to inhuman and degrading treatment of the applicants. The complaints in this respect lodged by the applicants' counsels either remained unanswered or simply received formal replies or were denied over a prolonged period of time (violation of Article 3).

3. The violations of Articles 5 § 1, 5 § 3 and 5 § 4 found by the Court in the *Piruzyan* case concerning the applicant's detention on remand were due mainly to various shortcomings of the domestic law in force at the material time and are supervised under the *Poghosyan* group (No. 44068/07).³

II. INDIVIDUAL MEASURES

a) Payment of Just Satisfaction⁴

<i>Name of the Case</i>	<i>Pecuniary Damage</i>	<i>Non-Pecuniary Damage</i>	<i>Cost and Expenses</i>	<i>Total</i>
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²The Committee of Ministers welcomed the removal of metal cages from all courtrooms in Armenia and adopted a final resolution CM/ResDH(2016)37 on 10 March 2016 in the case of *Piruzyan v. Armenia*.

³The measures taken to remedy these violations will be introduced in the respective subsequent Action Plan/Action Report on the *Poghosyan* group.

⁴The payment receipts for the applicants in the *Ashot Harutyunyan* and *Piruzyan* cases have been submitted previously. The just satisfaction form for the applicant in the *Davtyan* case has been submitted to the Just Satisfaction Section of the Department for the Execution of Judgments of the European Court of Human Rights.

<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
<i>Davtyan</i>	-----	EUR 9,000	EUR 60	EUR 9,060 Paid on: 24.09.2015

b) Other Individual Measures

4. In the *Ashot Harutyunyan* case the applicant died in prison from a heart attack (§ 70 of the judgment). In the *Piruzyan* case the applicant was released from detention (§ 41 of the judgment), in the *Davtyan* case the applicant was released on parole in June 2006 (§ 66 of the judgment). In all the cases the just satisfaction awarded was paid. Furthermore, the applicants in the cases of *Piruzyan* and *Davtyan* did not avail themselves of the right to apply for reopening of the cases at the national level. Therefore, no other individual measures seem necessary.

III. GENERAL MEASURES

A. Use of Metal Cages in Courtrooms (Article 3 of the Convention - Degrading Treatment)

5. Following the circumstances of the cases at issue and as a result of reforms the practice of using metal cages in courts has been abandoned. This change in practice was also emphasised in the Court's judgment in the case of *Svinarenko and Syladnev v. Russia*.⁵ Furthermore, the Committee of Ministers welcomed the removal of metal cages from all courtrooms in Armenia and adopted a final resolution CM/ResDH(2016)37 on 10 March 2016 in the case of *Piruzyan v. Armenia*. It follows that no similar violation can occur in the future.

B. Access to Healthcare (Article 3 of the Convention - Inhuman and Degrading Treatment)

a) Measures Taken to Improve State Legislation

6. Following the Court's judgments in respect of Armenia and considering the observations and recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter, the CPT) in its periodic reports, rudimentary reforms in the field of criminal justice are initiated.

7. Series of significant amendments to the existing Criminal Code of the Republic of Armenia have been effectuated. Pursuant to the Republic of Armenia President 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

⁵ *Svinarenko and Syladnev v. Russia*, Nos. 32541/08 and 43441/08, § 75, ECHR 2015

developing the new draft Criminal Code has been launched. The draft was put into circulation in the beginning of August 2015. It is now in the process of being summarised and finalised.

8. The new draft Code of Criminal Procedure has been finalised and submitted to the National Assembly. Discussions were held at the Standing Committee on State and Legal Affairs of the Parliament, and all the proposals made were incorporated in the text of the draft. Furthermore, from 15 to 17 April 2016 second consultation meetings were held with international experts on the draft Code of Criminal Procedure.⁶ It is envisaged to finalise the draft at the end of summer 2016. It is worth to mention that the new draft Code of Criminal Procedure seeks to promote many internationally recognised principles concerning the investigation mechanisms and observance of human rights in the course of criminal proceedings.

9. 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 (individualisation 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). In this context, the Concept Paper of the new draft Penitentiary Code has been finalised and sent for international expertise. A positive feedback was received, and, at present, the Working Group is drafting the new Penitentiary Code.

10. It should be mentioned that the process of legislative amendments has started before the delivery of the Court's judgments in the *Ashot Harutyunyan* group of cases. In order to provide sufficient safeguards for the effective access to requisite medical assistance in detention, the Government, by its *Decree No. 825-N (N 825-L)* of 26 May 2006, adopted a new regulation on the procedure of providing medical care to detainees and convicts by means of guaranteeing 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.

11. The mentioned 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 one has undergone.

⁶ The consultations were organised in the framework of the EU/CoE joint project *Supporting the Criminal Justice Reform and Combating Ill-treatment and Impunity in Armenia*.

12. Following the Court's judgments 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 Code of Criminal Procedure 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 choice and to communicate with him without any obstacles, including without any visual or auditory surveillance of the prison (detention) administration (Article 43).

13. The new draft Code of Criminal Procedure also envisages that in addition to any medical examination carried out by a doctor called by the police authorities, an arrestee, 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 Code of Criminal Procedure 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 has failed 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).

14. Apart from the large-scale legislative reforms in the process, it should also be mentioned that the Court of Cassation of Armenia, the ultimate objective of which is to ensure the uniform application, the correct interpretation and the development of the law extensively refers to the well-established case-law of the Court and the principles and standards applied thereof in its judicial practice. Therefore, by applying the principles and standards established by the Court's case-law the Court of Cassation also emphasises the importance of conducting timely medical examinations in the context of preventing violations of Article 3 of the Convention, thus, making them the integral part of the domestic legislation and practice.⁷

b) Measures Taken to Improve the Provision of Health Care Assistance in Prisons

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

16. Access to medical service and care: To properly organise and improve the quality of medical services provided to persons deprived of liberty in penitentiary institutions, the Penitentiary Service of the Ministry of Justice cooperates with the Ministry of Health of the Republic of Armenia, NGOs, charitable foundations and organisations, in order to obtain necessary equipment and medicines for medical service which has an ongoing character.

17. To increase the efficiency of the activities of divisions providing medical services, to provide methodological assistance, Medical Working Committee of the Penitentiary Service, the employees of the Medical Service Division of the Penitentiary Service and experienced medical professionals are periodically sent to different penitentiary institutions. Furthermore, with the aim of properly organising twenty-four-hour and continuous medical care for detainees and convicts, penitentiary institutions are enabled to use, in case of necessity, services rendered by other medical specialists on a contractual basis.

⁷ The Court of Cassation Decision No. EAQD/0049/01/09 (ԵԱԳԴ/0049/01/09)

18. Steps are being taken to organise the process of diagnosis and treatment of detainees and convicts pursuant to the 10th revision of International Classification of Diseases (ICD-10). Within the framework of those activities it is envisaged to introduce the documents, normative acts (including recording and reporting forms) approved by the Ministry of Health of the Republic of Armenia and used in civilian medical institutions by complying them with the specific needs and requirements of the penitentiary service.

19. To provide medical consultations and examinations visits are periodically carried out to penitentiary institutions by the Medical Working Committee, narrow specialists of penitentiary system as well as specialists of civilian medical institutions. Such visits are also aimed at ensuring the examination of sick detainees and convicts in time and guaranteeing accurate diagnosis.

20. To provide access to specialist care, medical specialists are invited to penitentiary institutions for organising treatment in place and, if necessary, the detainees and convicts are transferred to Hospital for Convicts Penitentiary Institution of the Ministry of Justice of the Republic of Armenia, as well as to civilian medical institutions closely cooperated with.

21. Furthermore, medical assistance of detainees and convicts including by medical-specialists of their own choice is currently provided in the prescribed manner without obstacles.

22. Recording, hospitalisation and further treatment: To properly organise the procedure of regular medical check-ups and medical care in prison medical units, prison hospitals and civil hospitals (to exclude any possible delays of provision of medical assistance, to guarantee implementation of further treatment of and control over ill detainees and convicts indicated in the discharge certificate), to ensure the accuracy of filling in and completeness of the medical documents the Head of the Penitentiary Service of the Republic of Armenia issued a specific instruction on 9 September 2014.⁸ The heads of penitentiary institutions have been assigned to submit (each Monday) information about sick detainees and convicts receiving inpatient treatment in the medical ward of penitentiary institution to the Head of the Medical Service Division of the Penitentiary Service stating the patient's name, diagnosis and the date of transferring him to the medical ward of the penitentiary institution. The heads of medical divisions of penitentiary institutions, *inter alia*, have been instructed: (i) to conduct a mandatory medical examination when discharging a sick detainee or a convict from the medical service unit and to record the results in the register on provision of inpatient treatment to detainees and convicts; (ii) to write a discharge certificate in the history of the disease and the medical card, including brief information about treatment received and the examination conducted when discharging a person from the medical ward; (iii) to record, on the mandatory basis, all types of medical assistance provided, interventions, examinations and prescriptions made by doctor-specialists of civilian medical institutions invited by detainees and convicts in the medical card or in the history of the disease of detainees and convicts, mentioning the date, the registrar's position, name and signature.

23. Medical equipment: In 2015, an ultrasound machine was acquired for Armavir Penitentiary Institution. Throughout the month of December 2015 the medical units of penitentiary institutions have been equipped with more than 19 types of medical equipment, e.g. X-Ray machine, dental X-Ray machine, surgical instruments, electrocardiograph machine, ultraviolet lamps, etc.

⁸ Instruction No. E40/7-2688 (Ե40/7-2688) of 9 September 2014

24. Medication: This field is in the constant spotlight of the Armenian authorities. It is noteworthy that in 2015 over AMD 16,000,000 was saved and spent for acquiring 41 types of medication and 48 medical supplies. Furthermore, pursuant to the Government *Decree No. 825-N (N 825-Ն)* of 26 May 2006 persons deprived of liberty are entitled to freely receive medicine not prohibited by the legislation. In this context, a specific regulation on implementing the procedure for accepting, registering and handing over the medicine brought to penitentiary institutions by the relatives of persons deprived of liberty was prescribed by the instruction of the Head of the Penitentiary Service on 15 April 2015 for facilitating and properly organising the process in practice.

25. Material conditions: The Government have initiated the construction of a new prison - Armavir Penitentiary Institution – for 1200 inmates. The construction of the first block (for 400 inmates), including the premises for healthcare services, was completed in November 2014. On 15 December 2015 the remaining 2 blocks were put into operation. Now all cells are equipped and furnished. It has also to be noted that this new prison will have a new hospital designed for inpatient treatment of approximately 120 inmates. It will encompass two operating rooms and four rooms for post-operative care. As mentioned before, the prison will be equipped with new medical equipment⁹ which will satisfy the qualitative requirements for provision of requisite medical assistance to the inmates.¹⁰

26. The therapeutic unit and the ward, the surgery of the surgical unit, the cell No. 3 of the closed type block and several wards of the unit for treating tuberculosis have been repaired; a special construction has been put in place for the cell designed for disinfection in Hospital for Convicts Penitentiary Institution. In addition, it is envisaged to establish a reanimation ward and a unit for intensive therapy in the Hospital for Convicts Penitentiary Institution. At Vardashen Penitentiary Institution the dental office was fully renovated and equipped with modern dental equipment.

27. Furthermore, within the framework of agreements signed between the Hospital for Convicts Penitentiary Institution and the Armenia Renewable Resources and Energy Efficiency Fund the issues of lighting in the residential areas for detainees and convicts, heating in rooms, waterproofing of roofs and ensuring proper sanitary and hygiene conditions will be resolved.

28. Memorandum of Cooperation: A Memorandum of Cooperation (hereinafter, the Memorandum) was signed between the Ministry of Justice and Yerevan State Medical University on 27 January 2015.¹¹ In line with European Prison Rules order that “*medical services in prison shall be organised in close relationship with the general health administration of the community*” the Memorandum prioritises the necessity of properly organising medical aid and services in penitentiary institutions. It also acknowledges the significance of provision of health care services by specifically trained professionals who are independent from the prison medical and nursing staff.

29. 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 organising their practical work with detainees and convicts. The trainees studying in the mentioned clinical units will be certified to work in the

⁹ It is already partially equipped.

¹⁰ See Annex 1 of the previous Action Plan of 16 April 2015.

¹¹ See Annex 2 of the previous Action Plan of 16 April 2015.

healthcare units of the penitentiary institutions and provide counselling 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.

30. The Memorandum, in cooperation with the appropriate representatives of the Ministry of Justice, also envisages elaborating and introducing a course on prison (penitentiary) medicine which will be taught at 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.

31. Projects: A new project *Supporting the Criminal Justice Reform and Combating Ill-treatment and Impunity in Armenia* was launched in September 2015.¹² This 24-month-long project is aimed at strengthening the implementation of European human rights standards in Armenia. In particular, it is expected to improve the legislation on criminal matters and institutional mechanisms for combating ill-treatment in line with European human rights standards, to strengthen the capacity of the Academy of Justice to train prosecutors and investigators on criminal justice and human rights and to improve the knowledge and skills of investigators on criminal justice and human rights, including effective investigations of ill-treatment cases.

32. The Armenian authorities - in cooperation with the Council of Europe and the European Union - are implementing the project *Penitentiary reform - Strengthening Healthcare and Human Rights Protection in Prisons in Armenia* (2015-2017) aimed at improving the capacity of the penitentiary staff of applying the relevant European prison standards.¹³ 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. In the framework of this project the protocol decision of the Government on *Approving the Concept Paper of Modernisation of Medical Services in Penitentiary Institutions* is being drafted by experts.

33. In the framework of the said project, it is envisaged to acquire necessary modern accessories and equipment for providing first medical aid in medical units of 11 penitentiary institutions. For these purposes visits to penitentiary institutions of the Republic of Armenia were carried out by the experts to review the current state of medical equipment. As a result, evaluation of accessories and equipment was conducted, based on which the list of the types and number of the necessary accessories and equipment is currently being developed.

34. In the framework of the project *Support to the Government of Armenia for the Implementation of the European Neighbourhood Policy (ENP) Action Plan and Future Association Agreement*, the *Programme on Penitentiary System Reforms 2016-2018* which includes an extensive list of measures to be implemented in targeted areas of medical care was approved by Order No. 653-A (No. 653-U) of the Minister of Justice of the Republic of Armenia on 30 December 2015. For the purpose of ensuring proper implementation of this *Programme* and the *Action Plain deriving thereof*, a timetable was set for the realisation of the measures envisaged

¹² <http://pjp-eu.coe.int/en/web/eap-pcf/press>

¹³ Ibid.

therein by the Order of the Head of the Penitentiary Service of the Ministry of Justice dated 9 February 2016¹⁴.

c) Remedies relating to Article 3 in the context of the State Obligation to Protect the Physical Well-Being of Persons Deprived of Liberty

35. To appraise the effectiveness of remedies concerning allegations of violation of Article 3 of the Convention in the context of the State obligation to protect the physical well-being of persons deprived of liberty, the Armenian legislation prescribes a direct and appropriate system for arrestees and detainees to lodge complaints before the domestic authorities. To be efficient, the system ensures prompt and diligent handling of the complaints received from the persons deprived of liberty, secures their effective participation in the examination of the complaints and disposes a range of legal tools for *prevention* of the violation and proper *compensation* for the damage caused (in the Armenian legal system both *preventive* and *compensatory* remedies coexist and complement each other).

36. *Preventive remedies:* As a general preventive mechanism, it should be mentioned that all places for holding arrestees and detainees and penitentiary institutions are subject to **public control** effectuated by the Office of the Human Rights Defender, as well as respective monitoring groups having mandate to monitor the violations of deprived persons' rights, in accordance with the Armenian legislation. The public monitoring groups of penitentiary institutions and detention facilities are supervisory bodies dealing with the protection of individual's rights and freedoms held in places of deprivation of liberty. According to relevant regulations¹⁵ monitoring groups present three types of reports – regular¹⁶, annual¹⁷ and ad-hoc¹⁸ and the Ministry of Justice provides its comments on the reports¹⁹.

37. The group members are entitled to unrestricted access to the penitentiary institutions to examine the content of various documents (including, with the consent of inmates, their personal files, confidential documents and correspondence), the situation in the institution, and to meet inmates in privacy.²⁰ Group members may visit penitentiary institutions and detention facilities any day (including non-working days)²¹. In their activities the monitoring groups may involve experts in relevant professional fields, including human rights advocates and lawyers if necessary. Moreover, there are informative posters on the rights of persons deprived of liberty in visible and accessible areas, which also include the hotlines of the Human Rights Defender and the monitoring groups.

¹⁴ Order No. 24-L (No. 24-L) dated 9 February 2016.

¹⁵ Order No. QH-66-N (ՔՀ-66-Ն) adopted on 18 November 2005 by the Minister of Justice on *the Regulations of Activities of the Public Monitoring Group of the Penitentiary Institutions of the Ministry of Justice*"; Order No. 1-N (1-Ն) adopted on 14 January 2005 by the Head of the Police on *the Regulations of Activities of the Public Monitoring Group of the Police Detention Facilities*.

¹⁶ *Regular reports* cover concrete cases of violations of rights and freedoms of inmates under the oversight of penitentiary bodies. Comments on the current reports are provided by the Ministry of Justice within one month period after the submission.

¹⁷ *Annual reports*, among the others, cover the activities of each penitentiary institution; general situation in penitentiary institutions, their main problems, recommended solutions, results of the activities of the monitoring group. Comments on the annual reports are provided by the Ministry of Justice within three months after submission.

¹⁸ *Ad-hoc reports* present facts and findings on grave human rights violations revealed in penitentiary system and conclusions which require urgent solutions. The comments and possible solutions may be immediately presented to the Ministry of Justice.

¹⁹ Order No. QH-66-N (ՔՀ-66-Ն), § 13

²⁰ Order No. QH-66-N (ՔՀ-66-Ն), § 11; and Order No. 1-N (1-Ն) § 12

²¹ Order No. QH-66-N (ՔՀ-66-Ն), § 15; and Order No. 1-N (1-Ն), § 16

This is a direct and prompt possibility of contacting and raising complaints regarding the alleged violation of Article 3. The mandate of the NPM, as well as the monitoring groups entails a possibility of solving the issues raised through the cooperation with the administration of places of deprivation of liberty.

38. In this context it has to be noted, that the administration of the places of deprivation of liberty is also responsible for processing the complaint and is competent to verify the alleged violations. According to the domestic legislation, activities of administration of places of deprivation of liberty are also subject to *internal control* of supervisory bodies.²² Internal control implies that complaints regarding actions or inactions of administration can be brought before the superior authorities of the administration. The persons deprived of liberty may submit their proposals, applications and complaints every day, both in writing or orally and the superior authorities are required to examine them in a prompt manner.²³

39. Moreover, 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 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 penitentiary entities. A free of charge 24/7 hot line (+374) 10 442 273, as well as a free of charge voice portal (+374) 60 743 333 have been launched within the Penitentiary Service that provide useful and necessary information on inmates' and their relatives' rights and duties, as well as established procedures; give a possibility of contacting and raising complaints regarding the alleged inhuman and degrading treatment.

40. An important safeguard for the rapid cessation of the violation of the right not to be subjected to inhuman or degrading treatment is the *prosecutorial control (supervision)*. According to the Constitution (Article 103), as well as the Law of the Republic of Armenia on Prosecutor's Office, the prosecutor has the power to supervise the legality of the punishments and other measures of restraint (Article 29 § 1). Moreover, based on § 1.2 of Order No. 90 adopted by the Prosecutor General on 24 December 2007 on *Organisation of the Prosecutorial Activities in the Field of Execution of Punishments and Other Measures of Restraint* (last amended 30 September 2011 by Order No. 21) the supervising prosecutor is obliged to organise effective and prompt supervision over the places of deprivation of liberty.

41. Domestic legislation strictly stipulates that the prosecutor has unlimited access to the detention facilities and penitentiary institutions without any special and prior permission.²⁴ Besides the regular and systemic visits, arrestees and detainees have possibility to lodge a complaint to a prosecutor in charge of executing sentence and implementing security measures regarding his personal situation any time.

42. It is worth to mention that Prosecutor's Office is structurally and functionally fully independent from penitentiary system's bodies, has independent standing and responsibility for overseeing compliance by the administration of places of deprivation of liberty with the Armenian

²² Article 45 of the Law of the Republic of Armenia on Holding Arrestees and Detainees; Article 19 of the Penitentiary Code of the Republic of Armenia

²³ Article 18 of the Law of the Republic of Armenia on Holding Arrestees and Detainees; Article 15 of the Penitentiary Code of the Republic of Armenia (moreover, it prescribes that the complaints shall be handed over to the superior authorities *not later than within a day*).

²⁴ Article 48 § 1(2) of the Law of the Republic of Armenia on Holding Arrestees and Detainees; Article 22 § 2(2) of the Penitentiary Code of the Republic of Armenia

legislation. In addition to being independent, as supervising body, it has the power to investigate the complaints with the participation of the complainant and the right to render binding and enforceable decisions within a reasonable short time period via an urgent procedure. Moreover, authorities of the places of deprivation of liberty should report to the supervising prosecutor on the enforcement of their decisions.²⁵

43. *Compensatory remedies:* Acknowledging that the introduction of preventive remedies alone would clearly not be sufficient because a remedy designed to prevent the violations of Article 3 from occurring would not be adequate to provide a redress in a situation where the individual has already endured inhuman or degrading treatment for some time, the Government put in place the system of compensatory remedies capable of providing redress for the violation that have already occurred. Based on the domestic legislation, monetary compensation is available to anyone who has been subjected to inhuman and degrading treatment in breach of Article 3 and who made an application to that effect.²⁶

44. Thus, it can be noted that the Armenian legal system allows the individuals either to put an end to an ongoing violation or to obtain adequate compensation for a period of detention that has already ended.

C. *Awareness Raising Measures*

a) *Publication and Dissemination of the Judgments*

45. The judgments in the *Ashot Harutyunyan v. Armenia*, *Piruzyan v. Armenia* and *Davtyan v. Armenia* cases were translated and published on the official website of the Government Representation before the European Court of Human Rights (agent.echr.am), as well as on the Ministry of Justice official website (www.moj.am). Considering the importance of preventing 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*

46. 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 implement the Convention standards' awareness-raising also through conducting relevant trainings.

47. The 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

²⁵ According to Article 29 supervising prosecutor, among the others, has a right to interview the persons deprived of liberty (§ 4) and in case of any suspicion of violation, the prosecutor is entitled to require explanations about the actions taken or omissions from the administration (§ 6).

²⁶ Following the amendments to RA Civil Code, the institute of non-pecuniary damages has been introduced into Armenian legal system. Article 162.1 § 2 of the Civil Code stipulates ... *A Person, and in case of his death or incapacity, his spouse, parent, adoptive parent, child, adoptee, custodian, trustee are entitled to claim compensation through the court for non-pecuniary damage caused to him, if it has been established by the investigating authority or the court that the decision, action or inaction of a state body or local self- government authority or their official has resulted in the violation of the person's ... [right] ... not to be subjected to torture or inhuman or degrading treatment or punishment ...*

universities, as well as qualification-based training programmes organised for public officials on how to fulfil the requirements under the Convention and other related issues.

48. For the purpose of ensuring effective application of the Convention by other competent representatives of the prison administrations and prison medical staff, the *Ashot Harutyunyan*, *Piruzyan* and *Davtyan* cases, along with the Court's case-law, are also included in the training curriculum of the Law Institute of Ministry of Justice,²⁷ in Public Service Training Courses, as well as in the respective curriculum of the Academy of Justice of Armenia.²⁸ It is also worth to mention that a special course on application of Article 3 of the Convention has been designed and is taught at the Academy of Justice.

49. Furthermore, the academic programme for the years 2014-2016 includes a course on the *ECHR Case-Law on Criminal Cases*, in the framework of which subject matter on *Guarantees for the Protection of the Rights of a Person Deprived of Liberty* has been designed.²⁹

50. The academic curriculum 2014-2016 envisages a specific course on *Contemporary Issues of Criminal Procedure*. In the framework of this course a topic on *Contemporary Issues of the Lawfulness of Arrest and Detention* has been developed. In the scope of the latter discussions have been organised on the existing and proposed mechanisms to guarantee the lawfulness of detention, especially, in the context of the provision of medical service.³⁰

51. Another course titled *Contemporary Issues of Prosecutorial Control over the Execution of Punishments* is included in the academic programme 2014-2016 which encompasses the following topics: *Prosecutorial Control over the Rights of Arrestees, Detainees and Convicts and over the Material Conditions of the Places for Holding Arrestees and Detainees; Requirement to Conduct Proper Investigation in the cases of Death and Torture in the Places for Holding Arrestees and Detainees*.

52. On 27 November 2015, a round-table discussion was conducted at the Academy of Justice on the *New Mechanisms for Guaranteeing Fundamental Human Rights in the Field of Criminal Procedure according to the Draft Amendments to the Constitution of Armenia*. In particular, discussions were conducted on the new mechanisms to guarantee the lawfulness of detention in the context of provision of medical examination and care.

53. Currently, in the framework of the Council of Europe and European Union joint project *Supporting the Criminal Justice Reform and Combating Ill-treatment and Impunity in Armenia* educational materials are being developed on the following topic: *Investigation of Allegations of Torture and Ill-treatment and of the Cases Related to the Right to Life*.³¹

54. In addition to the mentioned, in May 2011 the 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, Strasbourg. The participants became acquainted

²⁷The Law Institute provides trainings for penitentiary officials and civil servants.

²⁸Besides the trainings, the Academy of Justice also provides separate compulsory courses for acting judges and candidates for judges, prosecutors and candidates for prosecutors, investigators, as well as other public officials

²⁹Beneficiaries: judges, prosecutors, investigators, investigators of the Special Investigation Service, individuals included in the list of candidates for judges, prosecutors and investigators.

³⁰Beneficiaries: prosecutors, investigators, as well as individuals included in the list of candidates for judges, prosecutors and investigators.

³¹Beneficiaries: investigators of the Special investigation Service of the Republic of Armenia.

with the CPT standards regarding detention conditions, the provision of health care in prisons and medical ethics and best practices in Europe. Through Council of Europe Secretariat presentations participants also became acquainted with standard-setting in the field of prisons, the role of the CPT in monitoring of prisons and recent case-law of the Court regarding detention conditions and health care in prisons.

55. In order for healthcare services in prisons and detention facilities to meet the standards in wider community and ensure the inmates' and detainees' right to have access to the same range and quality of treatment as any other potential patient, in March 2014 the Penitentiary Service of Armenia in cooperation with the Council of Europe has conducted trainings for medical personnel of penitentiary institutions. The trainings were organised 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.

56. 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* was launched in October 2013.³² One of the components of this project was to enable and encourage the Court of Cassation to apply relevant principles of the Convention and the Court's jurisprudence. For this purpose, judges and their assistants were being provided with relevant training seminars and workshops.

57. In the framework of this project a two-day workshop on enhancing skills on specific aspects of Articles 3 and 5 of the Convention has been organised 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 the European Convention for the Prevention of Torture have been discussed.

58. Furthermore, about 14 employees (doctors and average medical workers) of the medical service of penitentiary system of the Ministry of Justice of the Republic of Armenia have undergone a regular training at Yerevan State Medical University by financial means allocated from the State budget.

59. Trainings on prevention of HIV/AIDS and tuberculosis as well as on other medical issues are periodically organised for the employees of the medical service of penitentiary system of the Ministry of Justice in collaboration with the National Centre for the Prevention of Tuberculosis and HIV/AIDS.

60. In the framework of the project *Penitentiary reform - Strengthening Healthcare and Human Rights Protection in Prisons in Armenia* (2015-2017) it is envisaged to organise training courses on human rights and medical ethics for the staff of the penitentiary institutions in line with the European standards. Training courses *Human Rights and Medical Ethics* and *Health Promotion and Prevention Measures* have already been developed within the framework of the abovementioned

³²http://www.coe.int/t/dgi/hrnatimplement/projects/armenia_stengthening_application_ECHRandCaseLawen.asp

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project, based on which the training courses for about 800 employees of penitentiary service will be implemented.

IV. STATE OF EXECUTION

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