

# **Criminal Justice Responses to Prison Overcrowding in Armenia**



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This report describes and comments on the current situation in Armenia in relation to tackling penitentiary overcrowding and improving prisoner rehabilitation. It is part of a project operating in four Eastern Partnership (EaP) countries (Armenia, Georgia, Republic of Moldova and Ukraine) that have agreed to receive advice from the Council of Europe (CoE) in relation to these key aspects of offender management.

In pursuing such reforms, these countries are fulfilling an obligation they undertook when joining the CoE to harmonise their justice legislation and services with European standards. Standards relevant to these issues are set out in official recommendations published by the CoE.

### **Abbreviations**

As reference will frequently be made in the text of this report to six CoE recommendations, they will be abbreviated as follows:

- EPR: refers to Rec(2006)2 on the European Prison Rules;
- CoE Probation Rules: refers to CM/Rec(2010)1 on the Council of Europe Probation Rules;
- CoE Rec. on Parole: refers to Rec(2003)22 on conditional release (parole);
- CoE Rec. on Prison Overcrowding refers to R (99) 22 concerning prison overcrowding and prison population inflation;
- CoE Rec. on EM: refers to CM/Rec(2014)4 on Electronic Monitoring.
- CoE Rec. on Community Sanctions: refers to R (92) 16 on the European Rules on community sanctions and measures;

Other recommendations of general relevance to this report are:

- R (99) 19 concerning mediation in penal matters;
- Rec (2000) 22 on the improvement of implementation of the European Rules on community sanctions and measures;
- Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse;
- CM/Rec(2008) on European Rules for Juvenile Offenders subject to Sanctions and Measures;
- Rec(2012) 12 on Foreign Prisoners;
- Rec (2003) 23 on the management of life-sentence and other long-term prisoners.

In addition, further statements and guidance about offender management are available in the standards published by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), judgements of the European Court of Human Rights (ECtHR) and by the United Nations

### **THE OVERALL PROJECT: PROMOTING PENITENTIARY REFORM (FROM A PUNITIVE TO A REHABILITATIVE APPROACH)**

#### **1. The aims of the Project:**

- to combat prison overcrowding and support use of community sanctions and measures;
- to establish regional co-operation and a strategic approach on prison overcrowding;
- to reduce recidivism of former prisoners contributing to a healthier society and less crime.

## **2 The Project has worked through:**

- bilateral work as well as multilateral exchange of experience and cross-interaction;
- holding working meeting with participation of the representatives of the relevant ministries of the target countries through developing a comparative analyses report based on carried study on combating prison overcrowding in target countries;
- establishing a network and a forum for exchange of good practices between medium and high level representatives of the relevant ministries of the target countries for combating the prison overcrowding; and
- competency development of the trainers from the Training Centres / Academies of the target countries charged with training of prison and probation staff.

## **3 The Project activities:**

- Translate into six languages: Armenian, Azeri, Georgian, Romanian, Russian and Ukrainian the CoE Committee of Ministers recommendations and the extracts from the CPT general reports related to combating prison overcrowding;
- Develop e-compendiums of the Council of Europe documents on combatting prison overcrowding in six target languages and disseminate among the penitentiary and probation agencies and the training centres in charge of training prison and probation staff in target countries;
- Conduct study on prison overcrowding in target countries and develop country specific recommendations;
- Hold a high-level conference to highlight main findings of the study on prison overcrowding, discuss the recommendations provided and define the possible ways for their implementation; and
- Conduct Training of Trainers on Combating Prison Overcrowding for the trainers of the Training Centres / Academies of the target countries charged with training of prison and probation staff.

## **THE QUESTIONNAIRE**

1. Information was sought from the Ministry of Justice of Armenia (MoJ) about policy and implementation issues that relate to penitentiary overcrowding and prisoner rehabilitation. A total of 80 questions were divided between the following 12 sections:

1. Strategy and legislation;
2. The judiciary;
3. Police and prosecution;
4. Penitentiary service;
5. Prison overcrowding;
6. Prisoner re-socialisation;
7. Early and conditional release;
8. Alternative sanctions and probation;
9. Aftercare;
10. Data and statistics;
11. Crime as a whole community responsibility; and

## 12. Funding.

2. Answers to the questions were submitted by the MoJ in November 2015. The CoE is extremely grateful to officials for undertaking the considerable amount of work involved. In the following part of this report, most of the answers are given in full. The full text of the responses from the MoJ will be circulated separately.
3. Each answer is followed by a series of comments and recommendations, which include reference to relevant CoE standards.
4. At the end of each of the 12 sections some overall comments and recommendations are provided.
5. A questionnaire used to carry out the study is attached to the document in the relevant appendix.

## **SECTION 1. STRATEGY AND LEGISLATION**

### **1. Direction of Policy**

#### 1.1 Response from the MoJ

Current government policy in this sector is set out in the Presidential Executive Order “2012 to 2016 Strategic Programme for Legal and Judicial Reforms of Armenia”<sup>1</sup>. This covers a wide range of topics, but in relation to criminal justice, it requires the production of a new Criminal Code; a new Criminal Procedure Code; the establishment of a probation service; and the streamlining of procedures for early conditional release from prison.

In June 2015 the government adopted a Concept Paper giving details of the need for a Probation Service and describing how it would operate.

#### 1.2 Relevant International Standards

CoE Rec. on Prison Overcrowding (Introduction): Affirming that measures aimed at combating prison overcrowding and reducing the size of the prison population need to be embedded in a coherent and rational crime policy directed towards the prevention of crime and criminal behaviour, effective law enforcement, public safety and protection, the individualisation of sanctions and measures and the social reintegration of offenders;

CoE Rec. on Prison Overcrowding (Article 19): Prosecutors and judges should be involved in the process of devising penal policies in relation to prison overcrowding and prison population inflation, with a view to engaging their support and to avoiding counterproductive sentencing practices.

CoE Rec. on Prison Overcrowding (Article 20): Rationales for sentencing should be set by the legislator or other competent authorities, with a view to, inter alia, reducing the use of imprisonment, expanding the use of community sanctions and measures, and to using measures of diversion such as mediation or the compensation of the victim.

#### 1.3 Comments from the review

Both the Strategic Programme and the Concept Paper on Probation are generally consistent with CoE norms. Indeed the CoE is providing practical advice and assistance to help with implementing key aspects of these policies including improving healthcare in prisons and establishment of a probation service. However the Strategic Programme and the Concept Paper crucial documents that reveal the quality of thinking and the extent of expectations in relation to penal reform. They merit a detailed analysis that is beyond the scope of this project.

As pointed out in the CoE assessment report prepared by Iuliana Carbutaru and Gerard de Jong: “Reducing the use of custodial measures and sentences in Armenia”, dealing prison overcrowding was a key objective of the 2012-2016 strategic plan.<sup>2</sup>

### **2. Minimum sentences**

#### 2.1 Response from the MoJ

Armenian legislation does not prescribe minimum mandatory prison sentences.

#### 2.2 Relevant International Standards

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<sup>1</sup> Executive Order of the President of the Armenia No NK-96 A of 30 June, 2012

<sup>2</sup> “Reducing use of custodial sentences in line with European Standards” project funded by the CoE and the Norwegian Ministry for Foreign Affairs, 2013

The review has not found a specific standard on minimum sentences, Article 11 of the 1983 CoE Convention on the Transfer of Sentenced Persons (ETS N° 112) makes the following reference to this issue: In the case of conversion of sentence, the procedures provided for by the law of the administering State apply. When converting the sentence, the competent authority . . . shall not aggravate the penal position of the sentenced person, and shall not be bound by any minimum which the law of the administering State may provide for the offence or offences committed.

### 2.3 Comments from the review

While it may be strictly true that legislation does not prescribe minimum mandatory prison sentences, this may be the case for other reasons. Crimes in Armenia are graded as minor, medium, grave and especially grave. The CoE understands that prison sentence ranges are prescribed for each category. The “Concept Paper on the Criminal Code” is not as clear as it might be on this topic. However certain passages imply that minimum sentences will be proposed in the actual Criminal Code. These include “. . . if the half of the maximum period of the punishment envisaged in the form of deprivation of liberty is less than the minimal period envisaged by the sanction”.

Unnecessary imposition of imprisonment can result if an offender is guilty of a very minor example of a crime that carries a minimum sentence. In Armenia there is the safeguard that a court can replace the prison sentence with “conditional release” with the effect that the offender does not serve time in prison.

Penal Reform International (PRI) argues that mandatory minimum sentences reduce the opportunity for judges to give consideration to the mitigating circumstances of a crime. A mandatory minimum can restrict them from awarding a sentence that has the greatest possibility of encouraging rehabilitation and desistance from further criminal behaviour.<sup>3</sup>

## **3. Changes to criminal legislation**

### 3.1 Response from the MoJ

Changes have been made to the Criminal Code in the last five years recognising the changing trends in crime. This demonstrates the commitment the administration has to ensuring the relevance of its Criminal Code.

However the main initiative has been the formal adoption by the government on 2014 of a new Concept Paper the Criminal Code that is guiding work currently in hand on a complete revision of this key legislation.

### 3.2 Relevant International Standards

CoE Rec. on Prison Overcrowding (Article 5): “In order to devise a coherent strategy against prison overcrowding and prison population inflation a detailed analysis of main contributing factors should be carried out, addressing in particular such matters as the types of offence which carry long prison sentences, priorities in crime control, public attitudes and concerns and existing practices”.

CoE Rec. on Prison Overcrowding (Appendix paragraph 3): Provision should be made for an appropriate array of community sanctions and measures, possibly graded in terms of relative severity; prosecutors and judges should be prompted to use them as widely as possible.

CoE Rec. on Prison Overcrowding (Article 20): Rationales for sentencing should be set by the legislator or other competent authorities, with a view to, inter alia, reducing the use of imprisonment, expanding the use of community sanctions and measures, and to using measures of diversion such as mediation or the compensation of the victim.

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<sup>3</sup> Penal Reform International, “Promoting fair and effective justice”, 2014 ([www.penalreform.int](http://www.penalreform.int))

### 3.3 Comments from the review

Within the context of the programme “Support to the Establishment of a Probation Service in Armenia”, the CoE is providing technical advice in relation to consequent reforms necessary in the Criminal Code, the Criminal Procedural Code and the Penitentiary Code.

In addition to the activity mentioned on the Criminal Code, the CoE is also aware that fundamental revisions to the Criminal Procedure Code are nearing conclusion. It appears that amendments to this Code under consideration have not yet considered amendments likely to be required by the adoption of the Probation Law.

As these significant legislative reform are being prepared for submission to Parliament, and although all the state agencies are able in Armenia, to contribute to the process it is often important to provide detailed briefs for all leaders of the justice sector and elected representatives about the principles and purpose of proposed legislative changes. Their support will be necessary, particularly as the changes proposed will challenge traditional approaches to offender management and may, in the short term, involve additional funding.

## **4. Impact of changes to legislation on the prison population**

### 4.1 Response from the MoJ

The amendments and supplements made to the Criminal Code of Armenia in the course of 2010-2015 were primarily aimed at prescribing new types of offences in the Criminal Code in parallel with the development of social relations, as well as repealing certain acts prescribed in the Criminal Code, which, virtually, have lost the higher degree of danger they pose to the public.

After Articles 135 (Defamation) and 136 (Insult) of the Criminal Code of Armenia, as well as Article 206 (Evading payment of taxes by a citizen) of the Criminal Code of Armenia of 29 December 2011 were repealed on 18 May 2010, persons having committed offences under these articles are released from criminal liability and punishment, which has also—to some extent— contributed to the reduction of overcrowding in certain penitentiary establishments.

### 4.2 Relevant International Standards

CoE Rec. on Prison Overcrowding (Article 5): “In order to devise a coherent strategy against prison overcrowding and prison population inflation a detailed analysis of main contributing factors should be carried out, addressing in particular such matters as the types of offence which carry long prison sentences, priorities in crime control, public attitudes and concerns and existing practices”.

### 4.3 Comments from the review

It appears that some aspects of criminal liability have been changed which may reduce numbers in prison. More significant changes to the prison population can be anticipated by potential changes to the Criminal Procedure Code and the adoption of the Probation Law. The additional alternative sanctions of freedom limits, public rights restrictions, the expulsion of foreign citizens and stateless persons and the deprivation of parental rights should also have an impact on prison numbers.

## **5. Legislation about conditional release from prison**

### 5.1 Response from the MoJ

Under Article 76 of the Criminal Code, courts may release a prisoner before the sentence is complete if it thinks that further time in custody is not necessary for them “to be corrected”. Two thirds of the sentence could be discounted for less serious crimes but more time needs to be served before



serious offenders are eligible for release. The court can impose supervision or a community penalty as a condition of release. Sanctions are available if a prisoner commits a further crime or does not fulfil the duties imposed. The rules for conditional early release are complex compared to other administrations with differing percentages of remission allowed for the different gravities of crime. (The full response of the MoJ is available separately in the questionnaire response).

## 5.2 Relevant International Standards

CoE Rec. on Parole (Preamble): Recognising that conditional release is one of the most effective and constructive means of preventing reoffending and promoting resettlement, providing the prisoner with planned, assisted and supervised reintegration into the community.

## 5.3 Comments from the review

The process specified by the CCA for considering applications for parole has been criticised by the CoE, OSCE and other donors for being too complex. Certainly an opinion from the penitentiary management is an important part of the decision-making process. But most European jurisdictions believe that primary attention should be given to the prisoner's potential to keep to the requirements of early release rather than basing it on how well she or he has behaved in prison.

The fact that a decision on the prisoner's application must pass through through three separate stages could lead to unnecessary delays:

Firstly a dossier is produced taking into consideration the conclusions of various departments (including security, psychologist, and medical). It will include assessments made during the sentence, as well as general information about the prisoner and his or her compliance with legal requirements during the period of incarceration (incentives, disciplinary sanctions), his/her participation in work, educational, cultural, athletic or other similar activities, involvement in paid and unpaid works, reimbursement of material damage to the victim of the crime committed, communication and ties with the family, existence of persons under his/her custody, health condition, capability and disability.

If the prison administration believes that release is merited, the dossier is passed to an Independent Board. There are three of these in Armenia and each has eight members. A sub-commission of two members cover each penitentiary institution. The membership of these sub-commissions is rotated so that a member does not deal with a penitentiary for longer than three consecutive months. Prior to the Independent Board considering the case, its members conduct a face-to-face interview at the prison. Their report is considered with other documentation by a full Board meeting and a decision is made by secret ballot.

If the Independent Board agrees that the prisoner should be released, the matter is then referred to a special court for a final decision. These procedures are not subject to appeal.

The key issue should be whether supervision and rehabilitation in the community can help to avoid further crime. However such assessments require the establishment of a probation service with good risk assessment methods, experienced offender supervisors and a range of proven offending behaviour programmes. When a probation service is properly operating it would be advisable for the Criminal Procedure Legislation to be amended to require active and constructive supervision in the community of prisoners who are given early release.

## **6. Access to legal advice by persons in custody**

### 6.1 Response from the MoJ

Pursuant to point 3 of Article 13 of the Law of Armenia "On treatment of arrested and detained persons", arrested and detained persons shall have the right: "to file — in person, as well as through

a defence counsel or a legal representative — with requests and complaints with regard to violations of his or her rights and freedoms to the administration of arrest and detention facilities, the superior authorities thereof, the court, the Prosecutor's Office, the Human Rights Defender, state and local self-government bodies, public associations and parties, mass media, as well as international bodies or organisations for protection of human rights and freedoms". A similar provision is prescribed also by Article 12 of the Penitentiary Code of Armenia which applies to convicts.

Pursuant to point 149 of the Annex "On approving the internal regulation of detention facilities and correctional institutions of the Penitentiary Service of the MoJ of Armenia" approved by Decision of the Government of Armenia No 1543-N of 3 August 2006: "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".

## 6.2 Relevant International Standards

EPR (Rule 23.1): All prisoners are entitled to legal advice, and the prison authorities shall provide them with reasonable facilities for gaining access to such advice.

## 6.3 Comments from the review

Although suitable legislation may be in place, much depends on the procedures for requesting such a service. CPT reports on a number of countries draw attention to difficulties encountered by prisoners in making such applications (such as, for example, the report published in relation to the Republic of Ireland<sup>4</sup>). Informal deterrents can easily be applied by staff who fear that the prisoner may be making an unjustified complaint about their treatment.

# **7. New probation legislation**

## 7.1 Response from the MoJ

Government of Armenia has approved — by Protocol Decision No 19 of 30 April 2015 — the Concept Paper "On introducing probation service in Armenia" which is carried out within the framework of the programme "Support to establishment of probation service in Armenia" implemented jointly with the Council of Europe.

At present, the draft law "On probation service" has already been developed and as a result of the co-operation between the Council of Europe Office in Yerevan and the MoJ of Armenia — within the framework of the programme "Support to establishment of probation service in Armenia" — the legal expert examination of the draft law "On probation service" is carried out by the Council of Europe experts with the financial support of the Government of the Kingdom of Norway.

Two pilot programmes for introducing probation service are currently implemented in two cities of Armenia — in Yerevan and Vanadzor.

## 7.2 Relevant International Standards

All of the advice contained in the CoE Probation Rules is relevant here, particularly the first of the 18 'basic principles': "Probation agencies shall aim to reduce reoffending by establishing positive relationships with offenders in order to supervise (including control where necessary), guide and assist them and to promote their successful social inclusion. Probation thus contributes to community safety and the fair administration of justice".

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<sup>4</sup> See, for example, the CPT Report on the visit to Ireland from September 2014, CPT/Inf (2015) 38, (<http://www.cpt.coe.int/documents/irl/2015-38-inf-eng.pdf>).

### 7.3 Comments from the review

A limited set of community sanctions has been implemented by the Alternative Sanctions Division (ASD) of the State Penitentiary Service since 2006. The legislation enables penitentiary staff based in community offices to supervise offenders who have been “conditionally released” from courts or have been granted parole from prison. The ASD employs approximately 90 staff distributed in offices across the country. A limited scheme of community service is also in operation.

With guidance from the CoE, pilot teams covering the city of Vanadzor and part of Yerevan have been testing some core methods used by European probation services in advance of full legislation being available.

The Concept Paper estimates the cost of operating a national probation service to be between €1 million and €2 million per year. Although the MoJ is hoping for a grant from the EU to cover much of the first year cost, as yet it is not certain that Parliament will allocate the remainder of the necessary funding.

## **8. Legislation to improve cooperation between penitentiary and probation services**

### 8.1 Response from the MoJ

For the reasons given above, this does not apply at present.

### 8.2 Relevant International Standards

CoE Probation Rules (Rule 12): Probation agencies shall work in partnership with other public or private organisations and local communities to promote the social inclusion of offenders. Co-ordinated and complementary inter-agency and inter-disciplinary work is necessary to meet the often complex needs of offenders and to enhance community safety.

CoE Probation Rules (Rule 37) Probation agencies shall work in co-operation with other agencies of the justice system, with support agencies and with the wider civil society in order to implement their tasks and duties effectively.

CoE Probation Rules (Rule 40) Where appropriate, inter-agency agreements shall be arranged with the respective partners setting the conditions of co-operation and assistance both in general and in relation to particular cases.

### 8.3 Comments from the review

The Strategic Programme for reforms in this sector calls for a Probation Service to be separated from the Penitentiary Service and directly accountable to the Minister of Justice. Such thinking, which was developed some four years ago, is not uniformly accepted by leaders of the justice sector and may become an issue as the adoption of the Probation Law appears to be drawing closer.

It is clearly vital for a good relationship to exist between the penitentiary and probation services. As each agency takes on a new offender, it is likely that the other agency will have had previous contact that can prove helpful in making assessments and plans. A few European countries – such as Sweden and England – fully integrate these two services. Nevertheless, the normal model is for them to operate similar goals in separate agencies within the MoJ, with a strong emphasis on good communication in relation to overall policies and the management of individual offenders.

## **9. Use of amnesties and pardons**

### 9.1 Response from the MoJ

Pardon has been granted in Armenia in the course of 2012-2014 to:

31 convicts — in 2012;

23 convicts — in 2013;

22 convicts — in 2014.

No data have been maintained on pardons granted to convicts before 2012.

In the course of 2010-2014, amnesty in relation to convicts has been applied twice:

In 2011 amnesty was applied — pursuant to Decision of the National Assembly of Armenia No AJO-277-N of 26 May 2011 "On declaring amnesty in connection with the 20th anniversary of the declaration of independence of Armenia" — in relation to 1052 convicts, of which 602 convicts were released from further serving of punishment, and the sentence of 450 convicts was commuted.

In 2013 amnesty was applied — by Decision of the National Assembly of Armenia No AJO-080-N of 3 October 2013 "On declaring amnesty in connection with the 22nd anniversary of the declaration of independence of Armenia" — in relation to 1837 convicts, of which 686 convicts were released from further serving of punishment, and the sentence of 1151 convicts was commuted.

## 9.2 Relevant International Standards

CoE Rec. on Prison Overcrowding (Article 19): Preference should be given to individualised measures, such as early conditional release (parole), over collective measures for the management of prison overcrowding (amnesties, collective pardons).

## 9.3 Comments from the review

According to official figures, Armenia's prisons are not overcrowded. A total of 3,880 prisoners were held in establishments containing 4395 places. However, it must be noted that this is calculated on the basis of Article 73 of the Criminal Code of Armenia, which merely specifies a minimum of 4m<sup>2</sup> accommodation space per prisoner. A recent legal opinion on the draft Probation Law by the Council of Europe<sup>5</sup> interprets the figures to suggest that Armenia has a serious prison overcrowding problem that is masked by these two forms of executive release.

Furthermore, criminologists generally disprove of amnesties because they are awarded to whole groups of prisoners without properly distinguishing those who most merit it or who can be trusted keep to the conditions of release. The lack of preparation for release, risk assessment, or advice after release, means that the public is put at risk and too many return because of further crime. A properly managed system of parole is a far better alternative. Amnesties are a crude method of dealing with overcrowding and they can undermine confidence amongst civil society in a process of early release.

This is well argued in the report by the Max Planck Institute: "Prison Overcrowding - Finding Effective Solutions Strategies and Best Practices against Overcrowding in Correctional Institutions":<sup>6</sup> "However, the regular use of amnesties as a response to prison overcrowding seems to undermine confidence in the criminal justice system". He goes on to suggest that they may only have a role to play as an instrument to settle large-scale conflicts and to support reconciliation. However, in the example of Georgia, if the amnesties create a 'once and for all' situation, in which modern methods of criminal justice practice have a better chance of success (by the judiciary, the penitentiary service and the probation service), the amnesties may have been worthwhile.

<sup>5</sup> "Legal Opinion on the Draft Law on State Probation Service of the Armenia" Gerard de Jonge and Peter van der Laan

<sup>6</sup> Prison Overcrowding- Finding Effective Solutions Strategies and Best Practices Against Overcrowding in Correctional Institutions by Hans Joerg Albrecht of the Max Planck Institute for foreign and International Law. Published in March 2011 by the United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders (UNAFEI).

Pardons are generally awarded because either the justice process leading to the conviction was unsound or it was retrospectively decided that the prosecution itself was not in the public interest. However the number of pardons involved is small and not likely to influence public confidence.

## **10. Community sanctions and measures that are available to courts**

### 10.1 Response from the MoJ

Pursuant to Article 49 of the Criminal Code of Armenia non-custodial punishments are as follows:

- (1) Fine;
- (2) Deprivation of the right to hold certain positions or to engage in certain activities;
- (3) public works;
- (4) Deprivation of special or military rank, category, degree or qualification class;
- (4.1) Restriction in the military service;
- (5) Property confiscation.

### 10.2 Relevant International Standards

CoE Rec. on Prison Overcrowding (Article 12): The widest possible use should be made of alternatives to pre-trial detention, such as the requirement of the suspected offender to reside at a specified address, a restriction on leaving or entering a specified place without authorisation, the provision of bail or supervision.

CoE Rec. on Prison Overcrowding (Article 15) expands on this with the following list:

- probation as an independent sanction imposed without the pronouncement of a sentence to imprisonment,
- high intensity supervision,
- community service (i.e. unpaid work on behalf of the community),
- treatment orders / contract treatment for specific categories of offenders,
- victim-offender mediation / victim compensation,
- restrictions of the liberty of movement by means of, for example, curfew orders or electronic monitoring.

CoE Rec. on Prison Overcrowding (Appendix 2): “Probation [should be] an independent sanction imposed without the pronouncement of sentenced to imprisonment”.

### 10.3 Comments from the review

In addition to these sanctions and measures, courts are able to apply “conditional non-execution of sentence” to offenders where it is believed that a prison sentence is not required. This is applied to approximately 20% of offenders who appear before the courts<sup>7</sup>. Such people are required to report to the ASD where an assessment is made of the level of supervision necessary. Under current legislation the level and type of supervision that is provided is relatively limited. Nevertheless, the CoE project that is supporting the introduction of probation is showing that a number of important aspects of European probation can be introduced under existing legislation. These include risk and need assessment, offence-based counselling, social training courses and family counselling.

Similarly, the sentence of “public works” (community service) is currently implemented in a limited way that does not achieve its full potential. The EU Advisory Group’s policy paper identifies two

<sup>7</sup>Statistics provided by Armenia NGO Civil Society Institute and included in a forthcoming PRI paper “Promoting the use of non-custodial sanctions in Armenia, Azerbaijan and Georgia.”

reasons for this: “There are some underlying causes for this. Firstly, the Criminal Code, in its general part, defines public works as a type of punishment, yet, in the Code’s special part, does not envisage that public works functions as a sanction for any crime. Furthermore, public work requires a written application to be made by the convicted person. This means that the convicted person has to be exceptionally committed to being involved in the implementation of a public works sentence. The second issue is a lack of understanding by the public about the differences between the former Soviet sanctions known as ‘correction work’ and the new concept of public works. Correction works in former times were a compulsory way to maintain a person in employment”.<sup>8</sup>

Article 19 of the draft Probation Law contains 27 paragraphs describing the future operation of public works. The CoE Legal Opinion on this law recommends the name of the sanction is changed to Community Service (a point that would require further amendment to the Criminal Code). The opinion also makes the point that the probation service should take over direct supervision of this sanction, rather than, as present, leaving it to 3<sup>rd</sup> parties such as the Municipal Authorities.

## **11. Offender/victim mediation**

### 11.1 Response from the MoJ

Article 73 of the Criminal Code allows for a person who has committed a minor offence to be “released from criminal liability where he or she has reconciled with the victim and has compensated or otherwise settle the damage caused to him or her”. A large number of further Articles set limits to this approach being used. Proposals in the draft Criminal Procedure Code will result in reconciliation being more comprehensively regulated.

### 11.2 Relevant International Standards

CoE Rec. on Community Sanctions (Appendix 2, point 1): “Provision should be made for a sufficient number of suitably varied community sanctions and measures of which the following are examples . . . victim compensation/reparation/victim-offender mediation”.

### 11.3 Comments from the review

If “reconciliation” is to be a satisfactory aspect of criminal procedure, it must be carefully supervised and regulated. Otherwise, a powerful offender could force a victim to withdraw a complaint on the basis of very superficial evidence of reconciliation.

Article 12 of the draft Probation Law anticipates a role for the probation service in offender/victim mediation as follows: “The functions of the probation officer related to mediation in penal matters during the trial stage shall be defined by the Criminal Procedure Code of Armenia”.

## **12. Electronic monitoring of home detention as a pre-trial measure**

### 12.1 Response from the MoJ

Currently, electronic monitoring as a home detention in respect of the accused is not applied during the preliminary investigation or the trial in Armenia. But pursuant to point 4 of Article 123 of the draft Criminal Procedure Code of Armenia: “The supervision over the behaviour of the accused may, by the court decision, be exercised through special electronic means. The accused shall be obliged to permanently wear on the means of the electronic control, keep them in the operating condition and respond to the signals of the control by the competent body”.

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<sup>8</sup> “Towards Creation of a Probation Service in Armenia”, Policy Paper, EU Advisory Group, p 28

An institution of the electronic monitoring is also prescribed by the draft Law of Armenia "On the probation service".

### 12.2 Relevant International Standards

CoE Rec. on EM (Preamble): Recognising that electronic monitoring used in the framework of the criminal justice process can help reduce resorting to deprivation of liberty, while ensuring effective supervision of suspects and offenders in the community, and thus helping prevent crime.

### 12.3 Comments from the review

Currently Armenia has neither the equipment nor the legislation necessary for using electronic monitoring to supervise home detention. However, this option is strongly advocated in the Concept Paper on the Introduction of a Probation Service: "During the full operational phase (starting from January 2017) it is planned to initiate the implementation of functions, which was not considered possible during the previous phase. In particular, the implementation of electronic monitoring, as well as the implementation of other functions, envisaged by the new Criminal Procedure Code (in case of further delays in the adoption the Code)".

It should be noted that the primary aim of the current CoE advisory project is to provide "technical support to the establishment of a probation service, including introduction of a pilot electronic monitoring system".

Action to reduce reliance of Armenian courts on pre-trial detention was strongly advocated in the recent CoE Legal Opinion on the draft Probation Law: "Furthermore, Armenia seems to have a tradition of extensive and almost automatic use of remand or pre-trial detention for most offenders. There is little or no practice of conditional suspension of remand or pre-trial detention. Bail is possible but the actual use seems limited"<sup>9</sup>.

## **13. Electronic monitoring of home detention as a criminal sentence**

### 13.1 Response from the MoJ

The current legislation of Armenia does not provide for the application of electronic monitoring in respect of convicts. The institute of the electronic monitoring is prescribed by the draft Law of Armenia "On the probation service".

### 13.2 Relevant International Standards

CoE Rec. on EM (Article 57): When electronic monitoring is used as part of probation supervision, it shall be combined with interventions designed to bring about rehabilitation and to support desistance.

### 13.3 Comments from the review

Electronic monitoring of home detention has proved to be the most reliable and effective implementation of electronic technology in the penal system and it is currently used in over 20 European countries. Nevertheless, it can be up to twice as expensive per day as other alternative sanctions so its introduction should be staged according to the results of pilot testing in pilot situations. If the MoJ gets positive results from its current implementation with juvenile offenders this would seem to be encouragement for the method to be tested with adults.

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<sup>9</sup> "Legal Opinion on the Draft Law on State Probation Service of the Armenia" Gerard de Jonge and Peter van der Laan

## GENERAL COMMENTS ON SECTION 1: STRATEGY AND LEGISLATION

**Leadership.** A clear policy based on the concept of rehabilitation and coupled with understandable and convincing methods needs to be articulated by those who lead the various sectors of the justice system. Although reforms of this nature may achieve a certain amount of tacit support, vocal opposition can be expected from those who favour a punitive approach.

**Systemic issues.** Most of the problems in the justice system affect more than one part of it and lasting solutions require negotiation and compromise between agencies that have firm views about what is right. A frequent example is that delays in court proceedings results in pressure on places in pre-trial detention facilities.

**Planning and legislation.** Pilot projects and innovations by established service providers can pave the way for significant reforms. Nevertheless the need for strategic plans and reform of legislation must be addressed before critics have a chance to stall the process. The financial costs and benefits must be articulated, but it is equally important to raise the wider issues of community safety, a belief that offenders can reform, humanitarian principles and concern for victims.

**Evidence-based practice.** It is no longer wise or necessary for reforms to be based on assumptions of what will be effective. The study of international literature and results of small-scale pilots can help to avoid well-meaning but counter-productive initiatives.

**Evaluation of effectiveness.** Baseline statistics, and data about the effect of changes to legislation are necessary for guiding further work. Often an agency in one part of the justice system may be collecting routine information that will be of great help to evaluators elsewhere.

**Organisational flexibility.** There is no single method of locating a Probation Service within the justice system. Successful examples can be found where probation is fully integrated with the penitentiary service (such as in Sweden and England). Other countries find it preferable to achieve similar results by separating the two services and running them as independent agencies within the MoJ. Austria is notable for its probation service to be operated by non-governmental organisations under contract to the MoJ.

**Pilot projects.** It is often easier to establish more liberal penal policies favouring rehabilitation by introducing them with women or juvenile offenders. New methods which have then been proved to be successful can gradually be introduced to male and older offenders.

**Mandatory minimum sentences.** A study by PRI suggests that mandatory minimum sentences reduce the opportunity for judges to give greater consideration to the mitigating circumstances of a crime. The requirement to pass a custodial sanction can make it difficult for them to impose a community sanction that might have a greater possibility of encouraging rehabilitation and desistance from further criminal behaviour.<sup>10</sup>

## RECOMMENDATIONS FOR SECTION 1: STRATEGY AND LEGISLATION

**Range of alternative sanctions.** The list of alternative sanctions presently limiting the choices for judges. It is hoped that the expansion of alternative sanctions in the coming legislation will give the opportunity to expand the decisions for non-custodial sentences. Such new sanctions should focus on their purpose of rehabilitating offenders..

**Criminal legislation.** The contents of the Criminal Code will need to be adjusted to include new sanctions that have proved effective in tests carried out by the probation service. As such, this Code can be a key tool for justice reform. Attention must be given to frequent review of other legislation (i.e. Probation Law and Criminal Procedure Code) in order that the strategy for change maintains a momentum.

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<sup>10</sup> Penal Reform International, "Promoting fair and effective justice", 2014 ([www.penalreform.int](http://www.penalreform.int))



**Justice sector integration.** The criminal justice system consists of a number of independent agencies with their own history and culture. Structures should be established to promote continuous discussion and problem-solving so that the different parts are encouraged to support overall aims and objectives.

**Judges and prosecutors.** The reform strategy should seek to involve judges and prosecutors at the heart of its development as they hold the key to creating a greater synergy in the system and a therefore greater success in reducing crime.

**Joint operational meetings.** There should be regular inter-disciplinary meetings involving all justice professionals. Amongst other things these could promote debate on rehabilitation and the role of sentencing in creating a rehabilitative focus for all criminal justice practice. One possible model would be the “Criminal Justice Board” that meets quarterly in London under the direct chairmanship of the Minister of Justice.

## **SECTION 2. THE JUDICIARY**

### **14. Proportionate use of prison sentences**

#### 14.1 Response from the MoJ

The question asked for the percentage of all criminal cases heard in the courts that resulted in a custodial sentence. The response gives absolute numbers, rather than percentages.

<b>Year</b>	<b>Number of criminal cases heard in the courts</b>	<b>Number of cases that resulted in custodial sentence</b>
2010	3116	377
2011	2216	373
2012	2193	544
2013	2179	424
2014	1775	251

#### 14.2 Relevant International Standards

CoE Rec. on Prison Overcrowding (Article 1): Deprivation of liberty should be regarded as a sanction or measure of last resort and should therefore be provided for only where the seriousness of the offence would make any other sanction or measure clearly inadequate.

CoE Rec. on Prison Overcrowding (Articles 18-21): Prosecutors and judges should bear in mind resources available, in particular in terms of prison capacity (prosecuting and sentencing guidelines, in particular with regards to reducing the use of imprisonment and expanding the use of community sanctions and measures, and using measures of diversion such as mediation or the compensation of the victim); particular attention should be paid to the role aggravating and mitigating factors, as well as previous convictions play in determining the appropriate quantum of the sentence.

#### 14.3 Comments from the review

Countries that have inherited the Soviet penal philosophy tend to use imprisonment more often and for longer periods than European countries. However it is difficult to compare these statistics between different countries because crimes are classified differently. (For example, motoring offences may or may not be included in the data.)

### **15. Access to justice/legal aid**

#### 15.1 Response from the MoJ

In addition to the right an accused has to legal aid set within the Criminal Code, in 2006 an additional clause was added regarding financial assistance. The new Criminal Procedural Code sets out two articles concerning the right to legal assistance (Article 10) and the rights of the victim and witnesses to legal representation and the responsibilities of the conducting body (Article 19).

#### 15.2 Relevant International Standards

EPR (Rule 23.1): All prisoners are entitled to legal advice, and the prison authorities shall provide them with reasonable facilities for gaining access to such advice.

#### 15.3 Comments from the review

The right for defendants to have access to free legal representation is frequently implied in CoE standards. It would be interesting to know what proportion of defendants in Ukraine were sentenced to imprisonment without having any kind of legal representation.

## **16. Pre-trial detention**

### 16.1 Response from the MoJ

The question was answered with the figures provided below. However from these figures it is not possible to identify the answer to the question which was in terms of percentage of offenders who are remanded in custody.

2010 - 3434

2011 - 3088

2012 - 2497

2013 - 3011

2014 - 2203

### 16.2 Relevant International Standards

CoE Rec. on Prison Overcrowding (Article 11): The application of pre-trial detention and its length should be reduced to the minimum compatible with the interests of justice. To this effect, member states should ensure that their law and practice are in conformity with the relevant provisions of the European Convention on Human Rights and the case-law of its control organs, and be guided by the principles set out in Recommendation N° R (80) 11 concerning custody pending trial, in particular as regards the grounds on which pre-trial detention can be ordered<sup>11</sup>.

CoE Rec. on Prison Overcrowding (Article 12): The widest possible use should be made of alternatives to pre-trial detention, such as the requirement of the suspected offender to reside at a specified address, a restriction on leaving or entering a specified place without authorisation, the provision of bail or supervision.

CoE Rec. on Community Sanctions (Appendix 1): Provision should be made for a sufficient number of suitably varied community sanctions and measures of which the following are examples: - alternatives to pre-trial detention such as requiring a suspected offender to reside at a specified address, to be supervised and assisted by an agency specified by a judicial authority.

The European Court of Human Rights found repeatedly that the domestic courts failed to provide reasons for (the continuation of) pre-trial detention resorting to abstract and stereotyped grounds and not considering seriously the possibility of alternatives like bail seriously, thereby violating Article 5 §3 of the European Convention on Human Rights (hereafter ECHR). The fact that only cases against Armenia are cited here does not imply that it is a typical Armenian problem (Case of *Poghosyan v. Armenia*, 20 November 2011, appl. no. 44068/07; case of *Sefilyan v. Armenia*, 2 October 2012, appl. no. 22491/08; case of *Piruzyan v. Armenia*, 26 June 2012, appl. no. 33376/07). In the cases of *Muradkhanyan v. Armenia* (5 June 2012, appl. no.12895/06) and *Asatryan v. Armenia* (9 February 2010, appl. no. 24173/06), the extension of the pre-trial detention had been defined unlawful<sup>12</sup>.

### 16.3 Comments from the review

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<sup>11</sup> Recommendation N° R (99) 22 of the Committee of Ministers to Member States concerning Prison Overcrowding and Prison Population Inflation

<sup>12</sup> European Court of Human Rights case law reports contravention of article 5

Normally transition countries are associated with a high use of pre-trial detention. The figures supplied does not provide information whether it is lower use of pre-trial detention in Armenia or not than the typical figure of 10% in Western European countries. Comparisons such as this must be done with care because further details would need to be checked to see whether similar calculations are used. For example, the total number of “cases with court decision” may or may not include motoring or administrative offences.

A key potential role for a new Probation Service, that is more or less universal throughout Europe, will be to make assessments on offenders that can then be used by courts to help them make appropriate decisions. A key factor in the assessment process is the assessment of risk both in relation to further offending and the likelihood of breaching conditions of release pending trial.

## **17. Prison sentence lengths**

### 17.1 Response from the MoJ

The response provided the following statistics on prison sentence lengths, although was stated in actual numbers. It is assumed for the purpose of this Report that these represent newly allocated prisoners during the specific year. It shows that although prisoners were considerably fewer in 2014, the sentence lengths allocated were similar.

2010:      Less than 1 year – 21% (653)  
              From 1-2 years – 26% (828)  
              From 2-5 years – 39% (1205)  
              Over 5 years – 12% (364)  
              Over 10 years – 2% (54)

2014:      Less than 1 year – 26% (451)  
              From 1-2 years – 16% (285)  
              From 2-5 years – 45% (781)  
              Over 5 years – 11% (216)  
              Over 10 years – 2% (42)

### 17.2 Relevant International Standards

CoE Rec. on Prison Overcrowding (Rule 14): Efforts should be made to reduce recourse to sentences involving long imprisonment, which place a heavy burden on the prison system, and to substitute community sanctions and measures for short custodial sentences.

### 17.3 Comments from the review

The data provided by the MoJ requires further interpretation and comparisons with Western European figures, which would show that prison sentences are generally longer in Armenia.

## **18. Types of serious crime**

### 18.1 Response from the MoJ

Crimes are categorised in four levels of gravity. The level of gravity determines the length of prison sentence. Examples of crimes which required a minimum of 5 years included murder of a new-born child by mother, intentional grave harm to health, kidnapping and robbery. Crimes that required a minimum of 10 years included murder, high treason and subversion.

### 18.2 Relevant International Standards

CoE Rec. on Parole (Article 45): Statistics should be kept on such matters as the number of prisoners granted conditional release in relation to eligibility, the length of the sentences and the offences involved, the proportion of time served before the granting of conditional release, the number of revocations, reconviction rates and the criminal history and socio-demographic background of conditionally released prisoners.

### 18.3 Comments from the review

From evidence supplied sentence lengths appear to be getting shorter. Crimes that merit sentences of over five years are unlikely to attract alternative, community-based sanctions. However the offenders involved are the kind that raise particular concern when they are released from prison. Such people should be amongst the priority cases for a probation service as it attempts to develop realistic goals for a period of intense parole supervision.

This area of questioning is particularly useful when setting the response within the context of European experiences. Although crime rates in countries such as Armenia are significantly lower than in many western European countries rates on imprisonment are often the same.

Further research would be interesting to undertake in order that more information is known as to the average sentence lengths given to indicative categories of crime to understand whether a crime that warrants a custodial sentence in Armenia warrants the same in western European countries or indeed in EaP countries.

## **19. Functioning of the courts**

### 19.1 Response from the MoJ

The two main factors identified were a shortage of judges and (presumably in consequence) their overload of work.

### 19.2 Relevant International Standards

CoE/CM Recommendation R (92) 7 concerning Consistency in Sentencing (A. Rationales for Sentencing): 9. Delays in criminal justice should be avoided: when undue delays have occurred which were not the responsibility of the defendant or attributable to the nature of the case, they should be taken into account before a sentence is imposed.

### 19.3 Comments from the review

Pressure on the courts can be reduced to some extent by diverting minor cases out of the criminal justice system. Reforms pioneered in this region by Georgia have shown that informal warnings and mediation in such cases can have satisfactory outcomes for the parties involved and retain the confidence of the general public.

EaP countries have inherited a justice system in which the office of the prosecutor plays a significant part in determining the outcome of criminal cases. Some reform projects, such as those funded by the European Union and the United States government, take the view that the system would be more transparent if control was more in the hands of judges. Methods to improve the selection, training, salaries and discipline of judges are recommended in order to improve their public status.

## **20. Extent of recidivism**

### 20.1 Response from the MoJ

The figures provided by the MoJ will require further definition. They appear to suggest that the number of persons convicted who had previously been in prison dropped from 560 in 2010 to 264 in 2014. The full set of figures is:

Year .....	number with previous convictions
2010.....	560
2011.....	579
2012.....	514
2013.....	365
2014.....	264

## 20.2 Relevant International Standards

CoE/CM Recommendation R (92) 7 concerning Consistency in Sentencing (D. Previous Convictions):

1. Previous convictions should not, at any stage in the criminal justice system, be used mechanically as a factor working against the defendant.
2. Although it may be justifiable to take account of the offender's previous criminal record within the declared rationales for sentencing, the sentence should be kept in proportion to the seriousness of the current offence(s).
3. The effect of previous convictions should depend on the particular characteristics of the offender's prior criminal record. Thus, any effect of previous criminality should be reduced or nullified where:
  - a. there has been a significant period free of criminality prior to the present offence; or
  - b. the present offence is minor, or the previous offences were minor; or
  - c. the offender is still young.

## 20.3 Comments from the review

Figures provided in response to a later question indicate that approximately 17,500 offenders were convicted by courts in Armenia in 2014. If it is true that only 1.5% of the total received into prison in that year had previously experienced a prison sentence it suggests that prisons are good at deterring reoffending. However, as with other answers to statistical questions, more work might be necessary for these figures to be considered reliable.

## **21. Use of electronically monitored home detention while waiting for trial**

### 21.1 Response from the MoJ

Electronic monitoring as a home detention in respect of the accused is not applied during the preliminary investigation or the trial in Armenia. But pursuant to point 4 of Article 123 of the draft Criminal Procedure Code of Armenia: "The supervision over the behaviour of the accused may, by the court decision, be exercised through special electronic means. The accused shall be obliged to permanently wear on the means of the electronic control, keep them in the operating condition and respond to the signals of the control by the competent body".

The institute of the electronic monitoring is also prescribed by the draft Law of Armenia "On the probation service".

### 21.2 Relevant International Standards

CoE Rec. on Prison Overcrowding (Article 12): The widest possible use should be made of alternatives to pre-trial detention. . . . In this connection attention should be paid to the

possibilities for supervising a requirement to remain in a specified place through electronic surveillance devices.

### 21.3 Comments from the review

The CoE is currently helping the MoJ to test electronic monitoring in the context of its current project “Support to the Establishment of a Probation Service in Armenia”. Reliable equipment is readily available on the international market and staff should be able to operate the system effectively. However, when all costs are taken into account it is an expensive service (about twice as much as basic supervision by a probation officer). A major consideration is therefore whether courts will actually use electronic monitoring in cases in which otherwise the defendant would have been held in custody.

## **GENERAL OBSERVATIONS ON SECTION 2: THE JUDICIARY**

**Sentence lengths.** Countries that inherited the Soviet penal philosophy still tend to impose longer custodial sentences than in Western Europe. We are not aware of independent research that justifies longer sentences. It would therefore seem appropriate for Armenia to research whether sustaining a policy of longer sentences does reduce crime and protect the public. Of course offenders would prefer shorter sentences. But if unnecessarily long periods of incarceration are reducing their chances of successful reintegration, it is the wider community and further victims who will suffer.

**Pre-trial detention.** The frequent use of custody at the pre-trial and pre-sentence phases has also been a feature of Eastern European practice. In some Western European countries, as few as 11% of offenders<sup>13</sup> charged with deliberate crimes are held in pre-trial detention whereas the figure in Armenia is over 30%. Although prosecutors will claim that releasing the person will result in the prosecution being compromised it would be instructive to submit such claims to rigorous testing. In European justice systems, unnecessary use of pre-trial detention leads to worse long-term outcomes.

**Frequent use of custodial sanctions.** Although the use of imprisonment has reduced, it is still high compared to European averages of about 10% of all sentences. However, the statistics do show a reduction in 2013, the year of the very large amnesty. Comparing Armenian data to European mean sentence statistics published by SPACE I, Armenia has a lower percentage of sentences over 5 years.

**Access to lawyers.** Although access to lawyers for pre-trial and pre-sentenced persons has improved, it would be helpful to test the popular assumption that better legal representation leads to more appropriate sentencing.

**Risk assessment.** The use of detention has been reduced, indicating a gradual shift in the thinking of prosecutors and judges regarding risk. With the use of modern, scientific methods for assessing risk, they should have a better awareness of which defendants will present levels of risk where detention is appropriate. Probation Services in Europe are generally able to undertake these risk assessments and with other information can provide valuable reports for judges. In this way, the process of decision-making becomes more professional and indeed more accurate.

## **RECOMMENDATIONS ON SECTION 2: THE JUDICIARY**

**Pre-trial detention.** A strategy should be developed, based on CoE rules, to tackle the high levels of pre-trial detention. Such a strategy will need to include electronic monitoring of accused persons pending the trial as well as the introduction of assessment reports that identify the risk of breaching release conditions.

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<sup>13</sup> Figures obtained from "Pre-trial detention and its alternatives in Armenia" Penal Reform International, January 2012

**Training for prosecutors and judges in sentencing (including risk assessment and rehabilitation).**

Training for judges, together with staff of the other criminal justice agencies, should aim to achieve a greater understanding of these basic offender management methods so that more effective choice of sentences can be achieved. Such training should be undertaken in multi-disciplinary groups involving professionals from other parts of the Criminal Justice System in order to develop a greater understanding of corporate responsibility in decision making.

**Research.** Improved data on recidivism rates should be produced in order that the judiciary has a greater understanding of the effectiveness of its sentencing options.

**Legal advice.** The take-up and cost of legal aid, and the number of offenders sentenced to prison without legal representation, should be undertaken in order to review the effectiveness of this service.

**Electronic Monitoring.** Now that the MoJ has actively supported the inclusion of electronic monitoring of adults (and provisions are included in the draft probation law and draft criminal procedural code) there is a strong argument for testing it with pre-trial defendants .



## **SECTION 3. POLICE AND PROSECUTION**

### **22. Total number of crimes each year**

#### 22.1 Response from the MoJ

The MoJ has stated that the number of crimes committed in 2014 was 17,546. This represents a 20% rise compared to 2010.

#### 22.2 Relevant International Standards

CoE/CM Recommendation R (92) 7 concerning Consistency in Sentencing (J. Statistics and Research):

1. Sentencing statistics should be officially established. They should be compiled and presented in a way which is informative to judges, particularly in respect of sentencing levels for relatively quantifiable offences (for example drunk driving, thefts from supermarkets).
2. Statistics should be compiled so as to ensure that they give sufficient details to measure and to counter inconsistency in sentencing, for example by linking the use of particular penalties to types of offence.
3. Research should be done regularly to measure accurately the extent of variations in sentencing with reference to the offences punished, the persons sentenced and the procedures followed. This research should pay special attention to the effect of sentencing reforms.
4. The decision-making process should be investigated quantitatively and qualitatively for the purpose of establishing how courts reach their decisions and how certain external factors (press, public attitudes, the local situation, etc.) can affect this process.
5. Ideally, research should study sentencing in the wider procedural context of the full range of decisions in the criminal justice system (for example investigations, decisions to prosecute, the defendant's plea, and the execution of sentences).

#### 22.3 Comments from the review

Official crime rates are normally presented as the number of crimes in a year for every 100,000 population. On the basis of the national population of approximately 3 million, this gives the official crime rate in Armenia as 548 per 100,000 population. According to the European Source Book on Crime and Criminal Justice Statistics, 5<sup>th</sup> edition,<sup>14</sup> equivalent figures for other countries were: England and Wales 6,500; Denmark 7,800; Slovenia 4,500 and Lithuania 2,400. This would suggest that the crime rate in Armenia is about one tenth of the crime rate in the larger countries of Western Europe. However, as always, comparisons such as these raise the problem of whether or not a particular type of behaviour is categorised as a crime in the countries being compared.

### **23. Number of court cases**

#### 23.1 Response from the MoJ

The number of cases registered each year for court proceedings has dropped substantially. In 2010 there were 6,314 cases. By 2014 this had dropped by 40% to 3,784.

#### 23.2 Relevant International Standards

CoE/CM Recommendation R (92) 7 concerning Consistency in Sentencing (J. Statistics and Research):

1. Sentencing statistics should be officially established. They should be compiled and presented in a way which is informative to judges, particularly in respect of sentencing levels for relatively quantifiable offences (for example drunk driving, thefts from supermarkets).

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<sup>14</sup> European Source Book of Crime and Criminal Justice Statistics, 2014, 5<sup>th</sup> edition

2. Statistics should be compiled so as to ensure that they give sufficient details to measure and to counter inconsistency in sentencing, for example by linking the use of particular penalties to types of offence.
3. Research should be done regularly to measure accurately the extent of variations in sentencing with reference to the offences punished, the persons sentenced and the procedures followed. This research should pay special attention to the effect of sentencing reforms.
4. The decision-making process should be investigated quantitatively and qualitatively for the purpose of establishing how courts reach their decisions and how certain external factors (press, public attitudes, the local situation, etc.) can affect this process.
5. Ideally, research should study sentencing in the wider procedural context of the full range of decisions in the criminal justice system (for example investigations, decisions to prosecute, the defendant's plea, and the execution of sentences).

### 23.3 Comments from the review

It is interesting to note that in the five years from 2010 the number of crimes has risen by 20% yet number of cases referred to courts has dropped by 40%. 2014 only 22% of registered crimes resulted in a court hearing. This is slightly less than a typical European figure of about one crime in three being taken to court. These figures also confirm that overall crime rates appear to be quite low.

## **24. Supervision of offenders by police and prosecutors**

### 24.1 Response from the MoJ

In relation to supervising released prisoners, the MoJ provided the following information: In accordance with the decision 1254-N, dated 6 November 2014 on procedure for organizing the activities of community police, approved by the Government of Armenia, the community police officers are registering and implementing individual preventing measures towards persons released on parole, as well as toward persons having served the full prison sentence.

In relation to supervising offenders on alternative sanctions, the MoJ provided the following information: Decision of the Government of Armenia No 1561-N of 26 October 2006 "On prescribing the procedure for the activities of the territorial bodies of the Division for Execution of Alternative Punishments of the Penitentiary Department of the MoJ of Armenia" stipulates the functions of the DAS in the course of application of the alternative punishments prescribed by the Criminal Code of Armenia.

### 24.2 Relevant International Standards

CoE Rec. on EM (Preamble): Ethical and professional standards need to be developed regarding the effective use of electronic monitoring in order to guide the national authorities, including judges, prosecutors, prison administrations, probation agencies, police and agencies providing equipment or supervising suspects and offenders.

CoE Rec. on EM (Definitions): In some jurisdictions, electronic monitoring is directly managed by the prison, probation agencies, police services or other competent public agency, while in others it is implemented by private companies under a service-providing contract with a State agency.

### 24.3 Comments from the review

There has been a long tradition in EaP countries and elsewhere in the former Soviet Union for staff of the Interior Ministry to exercise limited supervision of convicted offenders. The preference in most European countries is that staff employed by police authorities are not involved in supervising offenders because they lack the appropriate training and management. However, police are key

stakeholders within the Criminal Justice System and their knowledge of the criminal behaviour, particularly of the more serious offenders, means they will have a valuable contribution to make to discussions about penal reform. In some countries police staff assist probation officers to supervise some of the most dangerous and high risk offenders who have been released from prison.

## **25. Arrest targets**

### 25.1 Response from the MoJ

Arrest targets have not been specified in Armenia in the last five years.

## **GENERAL COMMENTS ON SECTION 3: POLICE AND PROSECUTION**

The police and prosecutors are key stakeholders within the Criminal Justice System. However, in terms of reform strategies they are sometimes left outside of the plan. In the case of the police this is possibly because they are established in the brief of Ministry of Interior rather than the MoJ. In the case of the prosecutors' office, reasons may include the status the office holds within the system.

## **RECOMMENDATIONS FOR SECTION 3: POLICE AND PROSECUTION**

**Organisational cooperation.** The police and prosecutors should maintain a close relationship with the new Probation Service particularly after t

he introduction of electronic monitoring.

**Joint training.** Training in these issues should be provided for police and prosecutors in order that they develop their understanding and share their thinking on risk and needs assessment, and the concept of rehabilitation in criminal justice.

**Joint operations.** The police should agree cooperation protocols, especially in relation to electronic monitoring and the supervision of dangerous offenders released from prison.

## **SECTION 4. PENITENTIARY SERVICE**

### **26. Changes in prison population in the last five years**

#### 26.1 Response from the MoJ

The total number of prisoners in Armenia in the last five years has declined steadily from 5,142 at the end of 2010 to 3,888 at the end of 2014.

#### 26.2 Relevant International Standards

CoE Rec. on Community Sanctions (Rule 12): The widest possible use should be made of alternatives to pre-trial detention, such as the requirement of the suspected offender to reside at a specified address, a restriction on leaving or entering a specified place without authorisation, the provision of bail or supervision and assistance by an agency specified by the judicial authority. In this connection attention should be paid to the possibilities for supervising a requirement to remain in a specified place through electronic surveillance devices.

#### 26.3 Comments from the review

From the information available it is not possible to determine the individual reduction created through amnesties and those through criminal justice reforms.. The reduction created by criminal justice reform may be seen as a more legitimate means of combatting overcrowding.

### **27. Changed rate of imprisonment**

#### 27.1 Response from the MoJ

The total number of prisoners per hundred thousand population in the last five years has steadily decreased from 160 in 2010 to 131 at the end of 2014.

#### 27.2 Comments from the review

The typical imprisonment rate in Western European countries is around 110 per hundred thousand population. Statistics from the Council for Penological Co-operation of the CoE (SPACE I<sup>15</sup>) show that the rate in Armenia was 130 in 2014 (its most recent statistics). Thus, it might be thought that the imprisonment rate in Armenia is not very much out of line with the norm. However, it must be remembered from Question 22 that the crime rate in Armenia is one tenth of the crime rate in Western European countries.

### **28. Pre-trial detention**

#### 28.1 Response from the MoJ

1,039 detainees were held in penitentiary establishments in Armenia at the beginning of October 2015.

#### 28.2 Relevant International Standards

CoE Rec. on Community Sanctions (Rule 12): The widest possible use should be made of alternatives to pre-trial detention, such as the requirement of the suspected offender to reside at a specified address, a restriction on leaving or entering a specified place without authorisation, the provision of bail or supervision and assistance by an agency specified by the judicial authority. In this connection

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<sup>15</sup> <http://wp.unil.ch/space/space-i/prison-stock-on-1st-january-2013>

attention should be paid to the possibilities for supervising a requirement to remain in a specified place through electronic surveillance devices.

Relevant standards are defined in the Coe Committee of Ministers Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse.

### 28.3 Comments from the review

According to figures provided by the International Centre for Prison Studies, detainees awaiting trial or sentence currently represent approximately 26.4% of the penitentiary population in Armenia<sup>16</sup>. This is slightly higher than the European average of approximately 21%.

## **29. Women prisoners**

### 29.1 Response from the MoJ

A29: A total of 171 women were held in Armenian penitentiaries; 38 of them were in pre-trial detention.

### 29.2 Relevant International Standards

EPR (Rule 34) sets standards in relation to women prisoners as follows:

34.1 In addition to the specific provisions in these rules dealing with women prisoners, the authorities shall pay particular attention to the requirements of women such as their physical, vocational, social and psychological needs when making decisions that affect any aspect of their detention.

34.2 Particular efforts shall be made to give access to special services for women prisoners who have needs as referred to in Rule 25.4.

34.3 Prisoners shall be allowed to give birth outside prison, but where a child is born in prison the authorities shall provide all necessary support and facilities.

Further relevant advice is available in the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Resolution 2010/16).

### 29.3 Comments from the review

This represents 4.4% of the total prison population and is consistent with European averages in 2015 which were, for example, France 3.3%, Italy 4.1% and England 4.6%<sup>17</sup>.

## **30. Life sentences**

### 30.1 Response from the MoJ

101 persons sentenced to life imprisonment are currently held in Armenian penitentiaries.

### 30.2 Relevant International Standards

- CoE recommendations on the subject are contained in the following document: Rec (2003) 23 on the management of life-sentence and other long-term prisoners.

<sup>16</sup> <http://www.prisonstudies.org/country/armenia>

<sup>17</sup> See SPACE I. Or for a more simple presentation of the information, similar information is available from the International Centre for Prison Studies: <http://www.prisonstudies.org/world-prison-brief>.

### 30.3 Comments from the review

This number of life sentenced prisoners is low compared to the major European countries. For example, England and Wales has approximately 80 times this number of prisoners serving life sentences from a population only 20 times larger.

## **31. Foreign nationals in prison**

### 31.1 Response from the MoJ

At the beginning of October 2015 there were 126 foreign citizens in Armenian penitentiaries.

### 31.2 Relevant International Standards

CoE recommendations are included in Rec(2012) 12 on Foreign Prisoners.

### 31.3 Comments from the review

On the basis of the figures supplied, foreign citizens represent 3.2% of the total prison population. This is far less than the proportions experienced in Western European countries in 2015, for example, France 21.7%, Italy 33.0%, Germany 27.1%, and England 12.8%<sup>18</sup>. It is therefore possible that, as they are in such a minority, these foreign citizens do not get the special attention they may need in terms of interpreting facilities and contact with family members in their home country.

## **32. Juveniles in prison**

### 32.1 Response from the MoJ

Six male juveniles are held in Armenian penitentiary establishments. Two of them are awaiting trial. No female juveniles are held in penitentiary establishments.

### 32.2 Relevant International Standards

EPR (Rule 35) sets standards in relation to juveniles in prison as follows:

35.1 Where exceptionally children under the age of 18 years are detained in a prison for adults the authorities shall ensure that, in addition to the services available to all prisoners, prisoners who are children have access to the social, psychological and educational services, religious care and recreational programmes or equivalents to them that are available to children in the community.

35.2 Every prisoner who is a child and is subject to compulsory education shall have access to such education.

35.3 Additional assistance shall be provided to children who are released from prison.

35.4 Where children are detained in a prison they shall be kept in a part of the prison that is separate from that used by adults unless it is considered that this is against the best interests of the child.

Further relevant standards are contained in CoE CM/Rec(2008) on European Rules for Juvenile Offenders subject to Sanctions and Measures.

### 32.3 Comments from the review

These are commendably low figures of juveniles kept in custody.

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<sup>18</sup> <http://www.prisonstudies.org/world-prison-brief>.

### 33. Young offenders in Armenian prisons

#### 33.1 Response from the MoJ

MoJ does not keep statistics for prisoners in this age range.

#### 33.2 Relevant International Standards

EPR (Rule 18.8): In deciding to accommodate prisoners in particular prisons or in particular sections of a prison due account shall be taken of the need to detain . . . . young adult prisoners separately from older prisoners. Also (Rule 28.3): Particular attention shall be paid to the education of young prisoners and those with special needs.

Recommendation CM/Rec (2008) 11 European Rules for juvenile offenders subject to sanctions or measures (Rule 10): Deprivation of liberty of a juvenile shall be a measure of last resort and imposed and implemented for the shortest period possible. Special efforts must be undertaken to avoid pre-trial detention. Also (Rule 21.2): “young adult offender” means any person between the ages of 18 and 21 who is alleged to have or who has committed an offence.

#### 33.3 Comments from the review

In European countries this is a key age group for offenders as it marks the years when relatively impulsive juvenile offenders normally give up crime. Unless effective rehabilitation programmes are available, offenders in the 18 to 21 age group are likely to continue committing crime for at least the following five years.

### 34. Capacity of prisons

#### 34.1 Response from the MoJ

Prisoner status	Capacity	Actual
Medical	424	424
Open	398	93
Semi open	975	1331
Semi closed	909	795
Closed	947	630
Detention (remand)	940	1039
<b>TOTAL</b>	<b>4,584</b>	<b>3,888</b>

INSTITUTION	Medical	Open	Semi-open	Semi-closed	Closed	Detention /Remand	TOTAL
Nubarashan		20	62	50	138	550	820
Goris		50	10	20	100	35	215
Artik		25	141	42	115	50	373
Sevan		15	483	50	-	-	548
Kosh		25	50	465	100	-	640

Abovyan		29	81	40	15	100	265
Vardashen		200	70	25	10	34	339
Vanadzor		10	15	30	110	80	245
Hospital	424	10	14	5	5	6	464
Hrazdan		-	4	24	187	-	215
Yerevan/Kentron		-	5	3	7	45	60
Armavir		5	40	155	160	40	400
	424	389	975	909	947	940	4584

### 34.2 Relevant International Standards

EPR (Rule 18.5): “Prisoners shall normally be accommodated during the night in individual cells except where it is preferable for them to share sleeping accommodation.”

In many Council of Europe countries, prisoners are provided with an individual cell, often measuring between 7.5m<sup>2</sup> and 9.5m<sup>2</sup>. The CPT has consistently stated that single-occupancy cells of less than 6m<sup>2</sup> (excluding the sanitary annexe) should be either withdrawn from service or enlarged in order to provide adequate living space for one prisoner.<sup>19</sup>

### 34.3 Comments from the review

The figures from the MoJ indicate that most prisons have sufficient space (according to their disputed interpretation of international standards). However, two large prisons were significantly overcrowded.

Many factors need to be considered before commenting on these figures. A prison may seem to have a reasonable amount of spare space, but it may have disadvantages from an operational point of view (difficult to recruit staff, unsuitable design, expensive to heat, or not near main population centres).

## **35. Standards for penitentiary services**

### 35.1 Response from the MoJ

The following answers were provided by the MoJ:

- Premises – minimum 4m<sup>2</sup>.
- Food – Portions are determined by Government Decree and identify special diets for pregnant women, nursing mothers and ill prisoners.
- Health – There is a special medical institution able to accommodate 424 prisoners. The Penitentiary Code identifies the procedure for organizing the “medical sanitation” and “medical preventative” assistance for both remand and sentenced prisoners. However, there appears little in the legislation that guarantees prisoners access to doctors.
- Regimes – The Penitentiary Code identifies the different status of prisons as open, semi open, semi closed and closed institutions. Most establishments are mixed type prisons (able to accommodate more than one type of prisoner) but where the various types are segregated from each other. For example, Armavir penitentiary establishment includes the following prisons inside the single institution – open, semi open, semi closed and closed as well as being an establishment for remand prisoners.

<sup>19</sup> See paragraph 59 of the CPT Standards.



- Outdoor exercise – This is stated in the legislation as ‘daily out of cell walks’ being organized in special open spaces designed for that purpose. The duration is defined in the Penitentiary Code as not being shorter than 1 hour per day.
- Visits – the Penitentiary Code allows for 1 short visit per month (up to 4 hours) and 1 long visit per 2 months (up to 3 days). In certain cases, long visits can be replaced by short visits. Additionally, for long term prisoners and those serving life imprisonment an additional 3 short visits (minimum) and 1 long term visit are provided.
- Physical fitness – The response included information that the Penitentiary Code provides the opportunity for offenders serving their punishment in closed and semi closed institutions to practice physical training in the areas specified for that purpose during the “daily out of cell walks”. It also states that within the Abovyan penitentiary establishment there is a room furnished with sports equipment.
- “Home Visits” – The response included the opportunity for visits to home for social rehabilitation, as well as for family problems, a natural disaster or serious illness.

### 35.2 Relevant International Standards

Space does not allow this review to describe all the international standards relating to the issues in this question. A sample is as follows:

Healthcare: The CPT has stated: “An inadequate level of health care can lead rapidly to situations falling within the scope of the term “inhuman and degrading treatment”. Further, the health care service in a given establishment can potentially play an important role in combatting the infliction of ill-treatment, both in that establishment and elsewhere (in particular in police establishments). Moreover, it is well placed to make a positive impact on the overall quality of life in the establishment within which it operates”.<sup>20</sup>

A health check for all prisoners is vital procedure not only to be able to deal with an individual prisoner appropriately but also to safe guard other prisoners from contagious diseases etc. As the CPT says: “An inadequate level of health care can lead rapidly to situations falling within the scope of the term “inhuman and degrading treatment”. Further, the health care service in a given establishment can potentially play an important role in combating the infliction of ill-treatment, both in that establishment and elsewhere (in particular in police establishments).”

Hygiene: According to EPR (Paragraph 19.1):

- All parts of every prison shall be properly maintained and kept clean at all times.
- When prisoners are admitted to prison the cells or other accommodation to which they are allocated shall be clean.
- Prisoners shall have ready access to sanitary facilities that are hygienic and respect privacy.
- Adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least
- twice a week (or more frequently if necessary) in the interest of general hygiene.
- Prisoners shall keep their persons, clothing and sleeping accommodation clean and tidy.
- The prison authorities shall provide them with the means for doing so including toiletries and general cleaning implements and materials.
- Special provision shall be made for the sanitary needs of women.

<sup>20</sup> Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment 2002, revised 2015

Some of these standards are raised as follows by the CPT<sup>21</sup>:

- A prison health care service should be able to provide medical treatment and nursing care, as well as appropriate diets, physiotherapy, rehabilitation or any other necessary special facility, in conditions comparable to those enjoyed by patients in the outside community. Provision in terms of medical, nursing and technical staff, as well as premises, installations and equipment, should be geared accordingly.
- There should be appropriate supervision of the pharmacy and of the distribution of medicines. Further, the preparation of medicines should always be entrusted to qualified staff (pharmacist/nurse, etc.).
- A medical file should be compiled for each patient, containing diagnostic information as well as an on-going record of the patient's evolution and of any special examinations he has undergone. In the event of a transfer, the file should be forwarded to the doctors in the receiving establishment.

EPR (Rule 24) has this to say about visits:

- 24.1 Prisoners shall be allowed to communicate as often as possible by letter, telephone or other forms of communication with their families, other persons and representatives of outside organisations and to receive visits from these persons.
- 24.2 Communication and visits may be subject to restrictions and monitoring necessary for the requirements of continuing criminal investigations, maintenance of good order, safety and security, prevention of criminal offences and protection of victims of crime, but such restrictions, including specific restrictions ordered by a judicial authority, shall nevertheless allow an acceptable minimum level of contact.
- 24.4 The arrangements for visits shall be such as to allow prisoners to maintain and develop family relationships in as normal a manner as possible.
- 24.5 Prison authorities shall assist prisoners in maintaining adequate contact with the outside world and provide them with the appropriate welfare support to do so.

### 35.3 Comments from the review

A detailed assessment of compliance of these Armenian penitentiary standards with international standards is beyond the scope of this review. Neither is it the intention of the review to assess the extent to which these standards are observed in practice. Nevertheless, the European Prison Rules have been very effective in giving guidance to prison administrations.

## **RECOMMENDATIONS FOR SECTION 4: PENITENTIARY SERVICE**

**Accommodation standards.** The method for calculating the capacity of a prison should be based on CPT standards. These cover more factors than simply the space available in dormitories.

**Management Information Systems.** Providing managers with the ability to collect and interpret operational data from their area of control will improve their ability to direct resources to achieve prison-wide objectives. Simple examples would be: time out of cell, incidents of disobedience, discovery of contraband, etc. In this way targets for improvement can be set and progress can be measured.

**Probation services within the penitentiary establishments.** Resettlement prospects for prisoners would be improved if probation staff visited prisons to contribute to pre-release courses and the development of individual release plans.

<sup>21</sup> <http://www.cpt.coe.int/documents/irl/2015-38-inf-eng.pdf>

## SECTION 5. PRISON OVERCROWDING

### 36. Overcrowding

#### 36.1 Response from the MoJ

The general living space of penitentiary establishments is sufficient to ensure the minimum 4m<sup>2</sup> defined for each convict by the legislation of Armenia.

Taking into account that distribution of detained persons and convicts is carried out in compliance with the principle of legislative requirements of keeping the detained persons and convicts separate (Article 68 of the Penitentiary Code of Armenia, Article 31 of the Law of Armenia “On treatment of arrested and detained persons”), as well as the considerations for ensuring the cohabitation and safety of detained persons and convicts, a problem of overcrowding at some cells, particularly in the detention facilities, sometimes arises.

Due to the need to reduce the overcrowding at detention facilities, an Order of the Minister of Justice of Armenia No 203-N of 11 May 2015 "On making amendments and a supplement to Order of the Minister of Justice of Armenia No 30-N of 28 February 2012", has been adopted. As a result of this Order a detention facility with a capacity of 40 persons has been set in "Armavir" Penitentiary Establishment. It enabled to reduce, to some extent, the number of the detained persons kept in "Nubarashen" Penitentiary Establishment.

In 2014, 11 auxiliary buildings in new "Armavir" Penitentiary Institution were furnished; auxiliary buildings with a capacity of 400 convicts were put in operation. After completion of construction activities, the institution will have the capacity to receive up to 1,240 persons. Also, reconstruction of other currently existing penitentiary establishments, raising their capacities, and construction of new penitentiary establishments are included in the strategic programmes for improvement of the penitentiary service. In case of implementing the mentioned programmes, it will become possible to fully address the issue of the proportional distribution of the persons deprived of liberty as well as of ensuring the minimum living space defined by the legislation.

#### 36.2 Relevant International Standards

CPT Standards comment on prison overcrowding as follows: “The phenomenon of prison overcrowding continues to blight penitentiary systems across Europe and seriously undermines attempts to improve conditions of detention. The negative effects of prison overcrowding have already been highlighted in previous General Reports. In such circumstances, throwing increasing amounts of money at the prison estate will not offer a solution. Instead, current law and practice in relation to custody pending trial and sentencing as well as the range of non-custodial sentences available need to be reviewed. This is precisely the approach advocated in Committee of Ministers Recommendation N° R (99) 22 on prison overcrowding and prison population inflation. The CPT very much hopes that the principles set out in that important text will indeed be applied by member States; the implementation of this Recommendation deserves to be closely monitored by the Council of Europe<sup>22</sup>.

The CPT felt the need for a rough guideline in this area. The following criterion is currently being used when assessing prison cells: in the order of at least 4m<sup>2</sup>, 2 metres or more between walls, 2.5 metres between floor and ceiling.

Elsewhere, the CPT standards<sup>23</sup> state that such a minimum should only apply to persons assigned to a multi-occupancy cell without including the area for a fully-partitioned sanitary facility. For permanent living space for a single-occupancy cell the CPT standard is a minimum of 6m<sup>2</sup> plus the area for sanitary facility.

<sup>22</sup> CPT Standards. Available from [www.cpt.coe.org](http://www.cpt.coe.org)

<sup>23</sup> ([www.cpt.coe.int/en/working-documents/cpt-inf-2015-44-eng.pdf](http://www.cpt.coe.int/en/working-documents/cpt-inf-2015-44-eng.pdf)).

## Living space per prisoner in prison establishments: CPT standards<sup>24</sup>

### *Introduction*

1. Since the 1990s the CPT has developed and applied minimum standards regarding the living space that a prisoner should be afforded in a cell. While these standards have been frequently used in a large number of CPT visit reports, they have so far not been brought together in a single document.

2. At the same time, there is a growing interest in these standards, at the national level (among member states' authorities responsible for the prison estate, national detention monitoring bodies such as national preventive mechanisms established under OPCAT, domestic courts, NGOs, etc.) and at the international level, not least because of the problem of prison overcrowding and its consequences. Currently, the Council of Europe's Council for Penological Co-operation (PC-CP) is preparing a White Paper on prison overcrowding. For its part, the European Court of Human Rights is frequently being called upon to rule on complaints alleging a violation of Article 3 of the European Convention on Human Rights (ECHR) on account of insufficient living space available to a prisoner.

3. Against this background, the CPT decided in November 2015 to provide a clear statement of its position and standards regarding minimum living space per prisoner; such is the aim of this document.

4. The cells referred to in this document are ordinary cells designed for prisoners' accommodation, as well as special cells, such as disciplinary, security, isolation or segregation cells. However, waiting rooms or similar spaces used for very short periods of time are not covered here.

5. During its monitoring activities, the CPT has frequently encountered situations of prison overcrowding. The consequences of overcrowding have been highlighted repeatedly by the CPT in its visit reports: cramped and unhygienic accommodation; constant lack of privacy; reduced out of cell activities, due to demand outstripping the staff and facilities available; overburdened health-care services; increased tension and hence more violence between prisoners and between prisoners and staff. The CPT considers that the question of minimum living space per prisoner is intrinsically linked to the commitment of every Council of Europe member state to respect the dignity of persons sent to prison.

6. Minimum standards for personal living space are not as straightforward a matter as they might appear at first sight. To begin with, the "minimum living space" standards used by the CPT differ according to the type of the establishment. A police cell for short-term detention of several hours up to a few days does certainly not have to meet the same size standards as a patients' room in a psychiatric institution; and a prison cell, whether for remand or sentenced prisoners, is again an entirely different matter.

7. Secondly, a differentiation should be made according to the intended occupancy level of the accommodation in question (i.e. whether it is a single cell or a cell designed for multiple occupancy). The term "multiple occupancy" also needs to be defined. A double cell is arguably different from a cell designed for holding for instance six or more prisoners. As regards large-scale dormitories, accommodating dozens and sometimes even up to one hundred prisoners, the CPT has fundamental objections which are not only linked to the question of living space per prisoner, but to the concept as such.

In its 11th General Report the CPT criticised the very principle of accommodation in large-capacity dormitories; frequently such dormitories hold prisoners in extremely cramped and insalubrious conditions. In addition to a lack of privacy, the Committee has found that the risk of intimidation and violence in such dormitories is high, and that proper staff control is extremely difficult. Further, an appropriate allocation of individual prisoners, based on a case-by-case risk and needs assessment,

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<sup>24</sup> CPT/Inf (2015) 44 | Section: 1/2 | Date: 15/12/2015

becomes an almost impossible task. The CPT has consequently long advocated a move away from large-capacity dormitories towards smaller living units.

8. Thirdly, the CPT has also taken into consideration the regime offered to prisoners when assessing cell sizes in light of its standards (see paragraph 21 below).

The CPT's basic minimum standard for personal living space

9. The CPT developed in the 1990s a basic "rule of thumb" standard for the minimum amount of living space that a prisoner should be afforded in a cell.

- 6m<sup>2</sup> of living space for a single-occupancy cell
- 4m<sup>2</sup> of living space per prisoner in a multiple-occupancy cell

10. As the CPT has made clear in recent years, the minimum standard of living space should exclude the sanitary facilities within a cell. Consequently, a single-occupancy cell should measure 6m<sup>2</sup> plus the space required for a sanitary annexe (usually 1 to 2m<sup>2</sup>). Equally, the space taken up by the sanitary annexe should be excluded from the calculation of 4m<sup>2</sup> per person in multiple-occupancy cells. Further, in any cell accommodating more than one prisoner, there should be a fully-partitioned sanitary annexe.

11. Additionally, the CPT considers that any cell used for prisoner accommodation should measure at least 2m between the walls of the cell and 2.5m between the floor and the ceiling.

### ***Promoting higher standards***

12. Rule 18.5 of the European Prison Rules (2006) states that "Prisoners shall normally be accommodated during the night in individual cells except where it is preferable for them to share sleeping accommodation." Indeed, in many Council of Europe countries, prisoners are provided with an individual cell, often measuring between 7.5m<sup>2</sup> and 9.5m<sup>2</sup>. The CPT has consistently stated that single-occupancy cells of less than 6m<sup>2</sup> (excluding the sanitary annexe) should be either withdrawn from service or enlarged in order to provide adequate living space for one prisoner.

13. When devising the standard of 4m<sup>2</sup> of living space, the CPT had in mind on the one hand the trend observed in a number of western European countries of doubling up 8 to 9m<sup>2</sup> cells that were originally designed for single occupancy, and on the other hand the existence of large-capacity dormitories in prison establishments (colonies) in various central and eastern European countries.

14. Although the CPT has never explicitly defined "multiple-occupancy", an analysis of visit reports indicates that cells for two to four prisoners implicitly fall under this notion. Consequently, the CPT has regularly implied that cells measuring 8m<sup>2</sup> were acceptable for two prisoners, cells of 12m<sup>2</sup> for three, and cells measuring 16m<sup>2</sup> were adequate for four prisoners. However, in a non-negligible number of cases, the CPT has also stated that cells of 8m<sup>2</sup> (or 8 to 9m<sup>2</sup>) should "preferably" (Slovenia, 2006; Hungary, 2013) or "idéalement" (Belgium, 2009) accommodate only one prisoner; or should be "used to accommodate no more than one prisoner save in exceptional cases when it would be inadvisable for a prisoner to be left alone" (UK, 2003). In the report on its 2011 visit to the Netherlands, the Committee stated that accommodation in double cells measuring between 8 and 10m<sup>2</sup> was "not without discomfort" to the prisoners, and in the report on the 2011 visit to Ireland, it recommended that "efforts be made to avoid as far as possible placing two prisoners in 8m<sup>2</sup> cells".

15. Clearly, the aforementioned examples suggest that the 4m<sup>2</sup> per prisoner standard may still lead to cramped conditions when it comes to cells for a low number of prisoners. Indeed, given that 6m<sup>2</sup> is the minimum amount of living space to be afforded to a prisoner accommodated in a single-occupancy cell, it is not self-evident that a cell of 8m<sup>2</sup> will provide satisfactory living space for two prisoners. In the CPT's view, it is appropriate at least to strive for more living space than this. The 4m<sup>2</sup> standard is, after all, a minimum standard.

16. For these reasons, the CPT has decided to promote a desirable standard regarding multiple-occupancy cells of up to four prisoners by adding 4m<sup>2</sup> per additional prisoner to the minimum living space of 6m<sup>2</sup> of living space for a single-occupancy cell:

- 2 prisoners: at least 10m<sup>2</sup> (6m<sup>2</sup> + 4m<sup>2</sup>) of living space + sanitary annexe
- 3 prisoners: at least 14m<sup>2</sup> (6m<sup>2</sup> + 8m<sup>2</sup>) of living space + sanitary annexe
- 4 prisoners: at least 18 m<sup>2</sup> (6m<sup>2</sup> + 12m<sup>2</sup>) of living space + sanitary annexe

17. In other words, it would be desirable for a cell of 8 to 9m<sup>2</sup> to hold no more than one prisoner, and a cell of 12m<sup>2</sup> no more than two prisoners.

18. The CPT encourages all Council of Europe member states to apply these higher standards, in particular when constructing new prisons.

### 36.3 Comments from the review

The CPT standards, described in detail above, are very challenging for countries that have limited funds for their criminal justice services. The standard that is most often quoted is living space per prisoner in the cell. However the area provided in Armenian legislation of 4 m<sup>2</sup> only meets 1990 CPT standard for single-occupancy cells, which are rarely found in its prisons. And more recently, the standard has been increased to 6m<sup>2</sup>. This would imply that Armenian prisons are more overcrowded by international standards than would be revealed by its own legislation.

Cell space must not be looked at in isolation. The other standards for the custodial environment are equally important, but not quite so easy to measure.

## **37. Factors leading to overcrowding**

### 37.1 Response from the MoJ

Overcrowding in the penitentiary establishments in Armenia is mainly a feature of excessive use of pre-trial detention, criminal justice policies that include mandatory minimum sentences, increase in long-term and life sentences, changes of eligibility for early release, and insufficient attention to assisting social integration upon release. Violations of early conditional release and conditional sentence also contribute. Legislation relating to these issues is being re-conceived in ways that may help to solve some of these problems.

### 37.2 Relevant International Standards

The CPT makes the following points about prison overcrowding: “To address the problem of overcrowding, some countries have taken the route of increasing the number of prison places. For its part, the CPT is far from convinced that providing additional accommodation will alone offer a lasting solution. Indeed, a number of European States have embarked on extensive programmes of prison building, only to find their prison populations rising in tandem with the increased capacity acquired by their prison estates. By contrast, the existence of policies to limit or modulate the number of persons being sent to prison has in certain States made an important contribution to maintaining the prison population at a manageable level”.<sup>25</sup>

### 37.3 Comments from the review

Each of the factors identified in the answer from the Ministry are likely to play a significant part in the current situation. They merit further detailed examination. However, the other points in the United Nations Office on Drugs and Crime (UNODC) list should not be discounted, particularly:

<sup>25</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment Standards 2002/revised 2015

poverty and inequality; delays in the criminal justice process; insufficient use of bail; inadequate use of alternative sanctions; and criminal activity associated with drugs. Each is dependent on a network of decisions in separate areas of the justice system.

### **38. Effects of overcrowding**

#### 38.1 Response from the MoJ

The current overcrowding in the penitentiary establishments in Armenia has a negative influence on safety, hygiene of the persons kept in the penitentiary establishments and on providing better conditions for health.

#### 38.2 Relevant International Standards

The CPT has made the following comments in relation to overcrowding: "Overcrowding is an issue of direct relevance to the CPT's mandate. All the services and activities within a prison will be adversely affected if it is required to cater for more prisoners than it was designed to accommodate; the overall quality of life in the establishment will be lowered, perhaps significantly. Moreover, the level of overcrowding in a prison, or in a particular part of it, might be such as to be in itself inhuman or degrading from a physical standpoint."<sup>26</sup>

#### 38.3 Comments from the review

Overcrowding may not affect all types of prisoner in the same way. In general, psychological thinking tends to suggest that women may suffer from reduced privacy but young men feel more aggressive in their need to assert their position in the group.

### **39. Distribution of overcrowding**

#### 39.1 Response from the MoJ

The information in Sub-section 36 has dealt with this question.

## **GENERAL OBSERVATIONS ON SECTION 5: PRISON OVERCROWDING**

Overcrowding means much more than a prison estate with inadequate cell space. A prison, for example may have adequate space but if the regime lacks activities for rehabilitation, or the area available for visits from relatives is cramped and inadequate, it could be concluded that overcrowding exists. Such an approach to offender management is often referred to as 'warehousing' and does little for the aims rehabilitation.

## **RECOMMENDATIONS FOR SECTION 5: PRISON OVERCROWDING**

**Re-calculate the capacity of the prisons.** Statements about the capacity of the prison estate should be revised according to a calculation based on current CPT recommendations of at least 6m<sup>2</sup> per prisoner in single occupancy cell + sanitary facility and 4m<sup>2</sup> per prisoner in multi-occupancy cell + fully-portioned sanitary facility.

**Collect regime data.** More detailed data should be collected about the impact of overcrowding on things such as health, regime activities and preparing prisoners for a successful release (re-socialisation).

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<sup>26</sup> Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment 2002, revised 2015

**More time out of cell.** The minimum standard for time out of cell is one hour for high risk offenders. Although information regarding lower risk offenders indicated that 10 hours was likely, this was not written in terms of a minimum standard. There should be monitoring of all out of cell times for all regimes. Best practice in Europe gives targets for local managers to raise amounts of out of cell times. This is sometimes seen as arduous by staff who need to be more pro-active in their work. Setting targets and measuring performance may be necessary to overcome staff resistance.

**Routine management information.** More modern methods of compiling and evaluating operational information should be employed. These include the collection of data on 'time out of cell', number of family visits, completion of sentence plans, etc. Information of this type will enable managers to set targets for improvement and encourage local teams to perform better by finding new solutions to old problems.



## SECTION 6. PRISONER RESOCIALISATION

### 40. Induction routine for prisoners

#### 40.1 Response from the MoJ

A Ministerial Order (by law) No 1543-N specifies that new prisoners are held in a “quarantine unit” for the first seven days. They have a medical check. Routines, work and training opportunities are explained. Required standards of behaviour are clarified. Rights and responsibilities are discussed. Formal and informal assessments are made in order to decide which of the prison’s units each new prisoner should be assigned to.

#### 40.2 Relevant International Standards

EPR describes recommended admissions procedures in the Rules 14 to 16:

14. No person shall be admitted to or held in a prison as a prisoner without a valid commitment order, in accordance with national law.
- 15.1 At admission the following details shall be recorded immediately concerning each prisoner:
  - a) information concerning the identity of the prisoner;
  - b) the reasons for commitment and the authority for it;
  - c) the day and hour of admission;
  - d) an inventory of the personal property of the prisoner that is to be held in safekeeping in accordance with Rule 31;
  - e) any visible injuries and complaints about prior ill-treatment; and
  - f) subject to the requirements of medical confidentiality, any information about the prisoner’s health that is relevant to the physical and mental well-being of the prisoner or others.
- 15.2 At admission all prisoners shall be given information in accordance with Rule 30.
- 15.3 Immediately after admission notification of the detention of the prisoner shall be given in accordance with Rule 24.9.
16. As soon as possible after admission:
  - a) information about the health of the prisoner on admission shall be supplemented by a medical examination in accordance with Rule 42;
  - b) the appropriate level of security for the prisoner shall be determined in accordance with Rule 51;
  - c) the threat to safety that the prisoner poses shall be determined in accordance with Rule 52;
  - d) any available information about the social situation of the prisoner shall be evaluated in order to deal with the immediate personal and welfare needs of the prisoner; and
  - e) in the case of sentenced prisoners the necessary steps shall be taken to implement programmes in accordance with Part VIII of these rules.

#### 40.3 Comments from the review

A careful, managed induction to the prison is an essential part of safe custody and is right in principle. However, the quality of the actual experience will depend on details that could only be

appreciated through actually examining such a unit. Pressure from other prisoners could be a factor if only a small number are held in quarantine at any time.

#### **41. Prisoners with special needs**

##### 41.1 Response from the MoJ

Article 68 of the Penitentiary Code and Article 31 of the “Law on Treatment of Arrested and Detained Persons” specifies 12 different categories of prisoner that should be kept separately. These include women; minors; law enforcement officials; dangerous individuals; and foreign nationals.

##### 41.2 Relevant International Standards

International standards in relation to the issues raised by this question are to be found at many points throughout the sets of advice and recommendation listed at the beginning of this Report. For example, in relation to nutrition, EPR states in Rule 22: “Prisoners shall be provided with a nutritious diet that takes into account their age, health, physical condition, religion, culture and the nature of their work”.

##### 41.3 Comments from the review

Most of these categories for separate accommodation seem straightforward. However, separating negligent criminals from those who have committed intentional crimes could be an arbitrary distinction. Likewise separating recidivists from those in prison for the first time is not necessarily a helpful distinction. European countries would usually make sophisticated assessments of risk and need. They would not normally differentiate prisoners on the basis of one particular characteristic or classification.

One of the first effects of overcrowding is the pressure it places on the ability of penitentiary administrations to maintain necessary services to potentially vulnerable groups. The policies set out by the MoJ in its answer, confirms that it intends to avoid any harmful outcomes.

#### **42. Individualised rehabilitation programmes for prisoners**

##### 42.1 Response from the MoJ

Pursuant to Order of the Minister of Justice of Armenia No 44-N of 30 May 2008 “On approving the procedure for the activities of structural subdivisions carrying out social, psychological and legal activities with detained persons and convicts”, activities carried out in relation to convicts by structural subdivisions (carrying out social, psychological and legal activities in penitentiary establishments of the MoJ of Armenia) include study of social and psychological characteristics, diagnosis and needs assessment, after which corrections programme for each convict is drawn up. The programme is drawn up in the course of one to three months after placing convicts in the penitentiary establishment.

The programme contains the actions and/or measures which are planned to be carried out for convicts in the course of serving the punishment. A release preparation plan for convicts is drawn up three months before the convict is granted early conditional release, the unserved part of the punishment is replaced by a milder punishment or the term of punishment is fully served, and activities envisaged by the plan are carried out aimed at their smooth reintegration into the society after the release

##### 42.2 Relevant International Standards

The CPT has strong views on this subject<sup>27</sup>: “A satisfactory programme of activities (work, education, sport, etc.) is of crucial importance for the well-being of prisoners. This holds true for all establishments, whether for sentenced prisoners or those awaiting trial. The CPT has observed that activities in many remand prisons are extremely limited. The organization of regime activities in such establishments - which have a fairly rapid turnover of prisoners - is not a straightforward matter. Clearly, there can be no question of individualized treatment programmes of the sort which might be aspired to in an establishment for sentenced prisoners. However, prisoners cannot simply be left to languish for weeks, possibly months, locked up in their cells, and this regardless of how good material conditions might be within the cells. The CPT considers that one should aim at ensuring that prisoners in remand establishments are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature. Of course, regimes in establishments for sentenced prisoners should be even more favourable.”

EPR (Rule 28) sets standards that are unlikely to be fully met in Armenian prisons for some years. For example:

- Regimes shall allow all prisoners to spend as many hours a day outside their cells as are necessary for an adequate level of human and social interaction.
- Every prison shall seek to provide all prisoners with access to educational programmes which are as comprehensive as possible and which meet their individual needs while taking into account their aspirations.
- Every institution shall have a library for the use of all prisoners, adequately stocked with a wide range of both recreational and educational resources, books and other media.
- As far as practicable, the education of prisoners shall be integrated with the educational and vocational training system of the country so that after their release they may continue their education and vocational training without difficulty.

#### 42.3 Comments from the review

The policies indicated by the MoJ are consistent with CoE advice. The big problem for countries with limited penal sector budgets (as indicated before) is their ability to provide good quality services called for by the policies.

### **43. Number of prisoners with individual sentence plan**

#### 43.1 Response from the MoJ

The corrections programme and the release preparation plan for convicts referred to in Sub-section 42 are drawn up for all convicts (criminal judgement entered into legal force), thus 100% are involved.

#### 43.2 Relevant International Standards

See Sub-section 42.2.

#### 43.4 Comments from the review

It may be useful in undertaking a specific review as to the detail given to the process of corrections planning and the release programme.

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<sup>27</sup> Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment 2002, revised 2015

#### **44. Number of prisoners who have accessed regime activities**

##### 44.1 Response from the Ministry of Justice

Measures carried out in 2014 include educational programmes, in which 3,8% of persons deprived of liberty were involved, work programmes in which 10,3% of persons deprived of liberty were involved as well as programmes on the fight against narcotic drugs. HIV/AIDS prevention, harm reduction, voluntary counselling and testing, syringe-exchange, condom availability and methadone substitute treatment programmes were continued to be implemented by the Medical Service Unit of the Penitentiary Department of the Ministry of Justice of the Republic of Armenia among detained persons and convicts.

One of the goals of the Programme implemented has been the provision of contemporary and scientifically substantiated treatment, rehabilitation and harm reduction services to persons using narcotic drugs and psychotropic substances. During 2014, 5958 brochures were distributed among persons using narcotic drugs and psychotropic substances, 3332 persons received counselling on prevention of HIV/AIDS and drug addiction. As of 31 December 2014, in penitentiary establishments 131 detained persons and convicts were undergoing methadone substitute treatment.

##### 44.2 Relevant International Standards

See Sub-section 42.

##### 44.3 Comments from the review

No doubt the Ministry of Justice would like to improve the proportion of prisoners who access work and education courses. Lack of specialist staff in the adult prisons (such as teachers, social workers and psychologists) mean that such courses may need to be redesigned so that they can be delivered by the guards who supervise the accommodation units.

The impact on successful rehabilitation of the other programs mentioned – drug treatment, employment and education – is unlikely to be disputed. However new methods for implementing them will also need to be developed as it is unlikely that sufficient mainstream funding will be available to increase participation numbers above these rather disappointing levels.

#### **GENERAL COMMENTS ON SECTION 5: PRISONER RESOCIALISATION**

**Emphasis on rehabilitation.** In Western Europe, throughout the final 30 years of the twentieth century, the work of prisons in re-socializing offenders grew in importance. Regimes had previously lacked any activities designed for preparation for release. Education and work training were seen as essential for many offenders, whose poor skills were shown to have contributed to their offending.

**Scope of education.** Education is conceived more widely in Western Europe than in the EaP countries and it is common to see prisoners involved in classes where they are exploring new social and life skills and learning how they can benefit from an appreciation of literature. Unfortunately, prison overcrowding and reduced budgets in these countries have limited the availability of these essential activities.

**Rehabilitation services.** As stated above, one of the key objectives of a prison system is to rehabilitate prisoners in order that they will not continue with a life of crime. There is no single reason why individuals will return to their former criminal life. However causes include: lack of socialisation, lack of employment and training, a feeling of rejection by society, antisocial attitudes, restlessness, association with other criminals impulsiveness, lack of education, and neglect or abuse by parents or guardians. There are many ways to reduce recidivism and among the most cost-effective are social training and education courses.

**Health needs.** This has been made a particular priority and the administration has been pro-active in introducing schemes that seek to screen for priority health issues and provide good quality treatment.

#### **RECOMMENDATIONS FOR SECTION 5: PRISONER RESOCIALISATION**

**Resocialisation methods.** The Penitentiary Code should designate a specific senior member of its headquarters team to be responsible for the rehabilitation aspects of penitentiary regimes.

**Cooperation between penitentiaries and probation.** Although the plan for the Probation Service is to make it independent from the Penitentiary Service, it is essential that a close working relationship between the two organisations should exist. In this way the transition from prison to community can be more effectively managed.

**Operational data.** The Penitentiary Service should assure the collection and analysis of reoffending rates of prisoners released with or without supervision. Similarly, data should be collected in relation to participation in rehabilitation activities in prisons.

**Pre-release programmes.** Programmes dealing with pre-release issues are not expensive to organise and can make an important difference. They should be seen as an essential part of the objectives of all prisons. Other programmes should be developed to respond to the criminogenic needs of prisoners.

## **SECTION 7. EARLY AND CONDITIONAL RELEASE**

### **45. Conditional release**

#### 45.1 Response from the MoJ

Articles 76 and 77 of the Criminal Code and Articles 114 to 116 of the Penitentiary Code make provision for early conditional release. Further details were published in bylaw No 1304-N in August 2006. This legislation prescribes whether one half or more of the sentence must be served (depending on the gravity of the crime) before release can be considered. A group of prison managers does the first screening and will automatically disallow applications from prisoners with disciplinary infringements on their record or who lack “positive characteristics”.

Files of any applicants thought to be suitable for early release are passed to an Independent Board. Two members of this Board will interview the applicant and if the full Board agrees that early conditional release is appropriate the case will be submitted for a court hearing. If the court agrees to release the person it can attach special conditions or substitute a milder punishment. If the application has not been agreed the prisoner can try again after six months. The two conditions normally applied to those given early release are not to commit further crime and to report at specified intervals to the Alternative Sanctions Division of the Penitentiary Service.

#### 45.2 Relevant International Standards

CoE Rec. on Parole (Preamble): Recognising that conditional release is one of the most effective and constructive means of preventing reoffending and promoting resettlement, providing the prisoner with planned, assisted and supervised reintegration into the community;

CoE Rec. on Parole (General principles 4.a): In order to reduce the harmful effects of imprisonment and to promote the resettlement of prisoners under conditions that seek to guarantee safety of the outside community, the law should make conditional release available to all sentenced prisoners, including life-sentence

CoE Rec. on Prison Overcrowding (Article 24): Parole should be regarded as one of the most effective and constructive measures, which not only reduces the length of imprisonment but also contributes substantially to a planned return of the offender to the community.

CoE Rec. on Prison Overcrowding (Article 25): In order to promote and expand the use of parole, best conditions for offender support, assistance and supervision in the community have to be created, not least with a view to prompting the competent judicial or administrative authorities to consider this measure as a valuable and responsible option.

CoE Rec. on Parole (Article 16 to 21): These paragraphs describe recommended approaches to conditional early release.

#### 45.3 Comments from the review

Release on parole should encourage prisoners to make full use of the opportunities available for rehabilitation during their sentence and to provide extra control on release while they adapt to freedom. The main criticism of this type of parole system is that it is based on past behaviour (e.g. disciplinary infringements), it gives too much responsibility to prison staff to assess the character of the prisoner and is not informed by professional assessments of whether the prisoner can overcome – with the help of probation supervision – the personal and social challenges they all will inevitably face.

### **46. Reduction of sentence under early release**

#### 46.1 Response from the MoJ

No statistics are kept to reveal the average amount of time not served.

#### 46.2 Relevant International Standards

CoE Rec. on Parole (Article 45): Statistics should be kept on such matters as the number of prisoners granted conditional release in relation to eligibility, the length of the sentences and the offences involved, the proportion of time served before the granting of conditional release, the number of revocations, reconviction rates and the criminal history and socio-demographic background of conditionally released prisoners.

#### 46.3 Comments from the review

In order to protect the public and make best use of limited resources, prison managers should have access to a wide range of practical operational information, such as this. Although this information will be recorded somewhere in relation to each individual prisoner, the lack of statistical analysis represents a handicap to managers and strategic planners.

Not many governments collect these figures but they would be extremely useful for managing the system and assessing its effectiveness. Informal impressions, while referring to the information provided in the following sub-section, are that more than half of prisoners are granted conditional release but the normal amount is no more than a few months.

### **47. Proportion of prisoners granted early conditional release**

#### 47.1 Response from the MoJ

The total number of prisoners eligible for parole in any year is not recorded. From 2010 approximately 280 were given early conditional release each year. In 2014 the figure suddenly dropped to 184.

#### 47.2 Relevant International Standards

CoE Rec. on Prison Overcrowding (Rule 23): The development of measures should be promoted which reduce the actual length of the sentence served, by giving preference to individualised measures, such as early conditional release (parole), over collective measures for the management of prison overcrowding (amnesties, collective pardons).

CoE Rec. on Prison Overcrowding (Rule 24): Parole should be regarded as one of the most effective and constructive measures, which not only reduces the length of imprisonment but also contributes substantially to a planned return of the offender to the community.

#### 47.3 Comments from the review

Although no statistics were asked or given, regarding the number of prisoners released from prison each year, an informal calculation which uses the prison population and sentence lengths may result in a figure of 2000 prisoners being released in Armenia each year. Releasing only about 10% of them on parole - and then with practically no supervision - suggests that the scheme is not the significant aspect of offender management that is found in European countries. As CoE Rec. on Parole confirm, general opinion is that the substantial period of parole – linked to effective supervision by the probation service – is strongly in the interests of safe release and lower levels of reoffending.

### **49. Support from probation for ex-prisoners**

#### 49.1 Response from the MoJ

No probation service currently exists in Armenia, but the draft law on the probation service has already been developed.

Meanwhile, the DAS operates in Armenia based on points 5-7 of Article 6 of the Law of Armenia “On penitentiary service”, and on Decision of the Government of Armenia No 1561-N of October 2006 “On prescribing the procedure for the activities of the territorial bodies of the Division for Execution of Alternative Punishments of the Penitentiary Department of the MoJ of Armenia”, which registers the persons having benefited from early conditional release, whose conduct is under the court’s supervision.

#### 49.2 Relevant International Standards

EPR (Rule 53): In accordance with national law, probation agencies may undertake supervision before, during and after trial, such as supervision during conditional release pending trial, bail, conditional non-prosecution, conditional or suspended sentence and early release.

#### 49.3 Comments from the review

Research undertaken by the MoJ for England and Wales shows that reoffending is significantly lower if prisoners are given compulsory supervision for at least 12 months after release<sup>28</sup>. Expenditure on such a service is judged to be good value for money and was a key factor in widespread reforms introduced there at the beginning of 2015.

### **50. Other support for ex-prisoners**

#### 50.1 Response from the MoJ

In Armenia, persons having benefited from conditional early release may be rendered aid by non-governmental organisations, which is of voluntarily and individual nature.

#### 50.2 Relevant International Standards

EPR (Rule 107.4): Prison authorities shall work closely with services and agencies that supervise and assist released prisoners to enable all sentenced prisoners to re-establish themselves in the community, in particular with regard to family life and employment.

EPR (Rule 26): Effective programmes for treatment during detention and for supervision and treatment after release should be devised and implemented so as to facilitate the resettlement of offenders, to reduce recidivism, to provide public safety and protection and to give judges and prosecutors the confidence that measures aimed at reducing the actual length of the sentence to be served and community sanctions and measures are constructive and responsible options.

#### 50.3 Comments from the review

Informal observations confirm that there are some excellent services provided for ex-prisoners by civil society organisations. However, they are limited in number and struggled to respond to the great level of need the experience. Development of NGO services has proved to be a cost-effective way of delivering help and avoid reoffending.

### **51. Re-conviction of conditionally released prisoners**

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<sup>28</sup> Ministry of Justice (2013) 2013 Compendium of re-offending statistics and analysis, London: Ministry of Justice



### 51.1 Response from the MoJ

During 2010 the total of 393 parolees were supervised by the DAS and 40 committed further offences. This 10% reconviction rate has remained steady ever since. In 2014 there were 97 parolees on the register, of which nine committed new offences.

### 51.2 Relevant International Standards

CoE Rec. on Parole (Article 43): In order to obtain more knowledge about the appropriateness of existing conditional release systems and their further development, evaluation should be carried out and statistics should be compiled to provide information about the functioning of these systems and their effectiveness in achieving the basic aims of conditional release.

### 51.3 Comments from the review

In order to compute the rate of reconviction it will be necessary to know the total numbers of prisoners released in those years.

We understand that the statistics refer only to new crimes committed while the period of supervision is in force. The normal standard for reconviction rates in European countries is to collect statistics for a period of two years from when the person first becomes at risk. Presumably, this test would reveal a higher reconviction rate. Information given in relation to other questions suggests that reoffending rates are commendably low. Publication of these statistics could improve public and judicial confidence in parole.

## **52. Reconviction rates for prisoners who complete their full sentence**

### 52.1 Response from the MoJ

No statistics on recidivism by persons released after having fully served their punishment and deprived of liberty thereafter is kept by the MoJ of Armenia.

### 52.2 Relevant International Standards

As mentioned in above Sub-section, CoE Rec. on Parole (Article 43), recommends that statistics such as this are compiled.

### 52.3 Comments from the review

Statistics of this nature enable the effectiveness of parole decision-making and post-release supervision to be measured and policy reforms to be evaluated.

## **GENERAL OBSERVATIONS ON SECTION 7: EARLY AND CONDITIONAL RELEASE**

**Benefits of parole.** Supervised release on parole benefits the community, the prisoner and the penitentiary service itself. Providing an incentive for early conditional release encourages more co-operative behaviour during sentences of the vast majority of prisoners. This allows for better offender management whilst in prison but also aids successful rehabilitation after prison. Research on recidivism rates for example, demonstrate that they are much lower amongst offenders given early conditional release. However, this may be because such offenders have a more positive attitude towards desisting from crime anyway.

**Rehabilitation programmes.** Prisoners provided with the opportunity to address their offending behaviour and to develop a positive attitude to release allows for a greater chance of rehabilitation.

Normally there exists in the community support and monitoring activities, which are commonly the responsibility of a Probation Service.

**Community perspective necessary.** In recent years, the number of prisoners released on parole is approaching European averages. However, the participation of the Probation Service in the process is more limited than would be ideal. Proper assessments, which focus on what would need to be done to help an individual complete a period of parole satisfactorily, require the kind of risk and need assessment best done by an agency experienced at supervising offenders in the community. Unfortunately, penitentiary staff can be over concerned with behaviour in the custodial environment, which is not a good predictor of behaviour released.

#### **RECOMMENDATIONS FOR SECTION 7: EARLY AND CONDITIONAL RELEASE**

**Reform of parole.** A greater priority must be given to the reform of the early conditional release system within the MoJ, which brings together the work of the new Probation Service and the methods used in many other European countries to better identify prisoners who pose limited risk to communities and are less likely to reoffend. Greater priority in parole decisions should be given to the assessment of risk and plans to mitigate it.

**Training.** A training programme should be developed and all the actors in the early conditional release system should undergo such training in order to adopt new standards and skills.

**Statistics.** Relevant statistics on reoffending rates and average reduction in sentences should be developed on a regular base and analysed.

## **SECTION 8. ALTERNATIVE SANCTIONS AND PROBATION**

### **53. New alternative sanctions**

#### 53.1 Response from the MoJ

Alternative punishment imposed in the form of correctional work has been abolished after the entry into force of the Law of Armenia No HO-119-N of 26 June 2006 "On making amendments to the Criminal Code of Armenia".

#### 53.2 Relevant International Standards

CoE Rec. on Prison Overcrowding (Appendix 2): "probation [should be] an independent sanction imposed without the pronouncement of sentenced to imprisonment".

The United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) 91 Rule 2 (3) provides that: "In order to provide greater flexibility consistent with the nature and gravity of the offence, with the personality and background of the offender and with the protection of society and to avoid unnecessary use of imprisonment, the criminal justice system should provide a wide range of non- custodial measures, from pre-trial to post-sentencing dispositions. The number and types of non-custodial measures available should be determined in such a way so that consistent sentencing remains possible."

Tokyo Rule 2 (4) states that: "The development of new non-custodial measures should be encouraged and closely monitored and their use systematically evaluated."

#### 53.3 Comments from the review

Correctional Work required offenders to undertake paid employment and give part of their wages to the court as a penalty for their crime. In its time it was a good alternative to prison, but the sentence fell into disrepute as economic circumstances reduced the necessary work opportunities. (This sanction is not to be confused with Community Service.)

Further consideration about the appropriateness of the term "conditional sentence" may encourage the adoption of the more normal European term of "probation order".

### **54. Purpose of alternative sanctions**

#### 54.1 Response from the MoJ

The DAS executes non-custodial punishments and exercises supervision over persons having benefited from conditional non-application of punishment, who have been conditionally early released from punishment, and for whom serving the punishment has been postponed.

#### 54.2 Relevant International Standards

The first principle of the CoE Probation Rules is the following: "Probation agencies shall aim to reduce reoffending by establishing positive relationships with offenders in order to supervise (including control where necessary), guide and assist them and to promote their successful social inclusion / reintegration. Probation thus contributes to community safety and the fair administration of justice."

#### 54.3 Comments from the review

The new Concept Paper on the Criminal Code, which was officially adopted in 2015, states that "We [Government of Armenia] need to review the system of punishment and practical types of

punishment alternative to deprivation of liberty; to improve the existing ones; to envisage means that are alternatives to criminal liability that would enable to save the criminal-legal coercion”<sup>29</sup>.

## **55. Range of alternative sanctions**

### 55.1 Response from the MoJ

The answer provides details of the following alternative sanctions: community service; conditional release from serving a custodial sentence; fine; exclusion from certain jobs or activities; restrictions on military service; confiscation of property. Together with the sanction a judge can require an offender to have certain treatments or be monitored by a psychiatrist.

### 55.2 Relevant International Standards

CoE Rec. on Community Sanctions Point 1 of the “Guiding principles for achieving a wider and more effective use of community sanctions and measures” states: Provision should be made for a sufficient number of suitably varied community sanctions and measures of which the following are examples:

- alternatives to pre-trial detention such as requiring a suspected offender to reside at a specified address, to be supervised and assisted by an agency specified by a judicial authority;
- probation as an independent sanction imposed without pronouncement of a sentence to imprisonment;
- suspension of the enforcement of a sentence to imprisonment with imposed conditions;
- community service (i.e. unpaid work on behalf of the community);
- victim compensation/reparation/victim-offender mediation;
- treatment orders for drug or alcohol misusing offenders and those suffering from a mental disturbance that is related to their criminal behaviour;
- intensive supervision for appropriate categories of offenders;
- restriction on the freedom of movement by means of, for example, curfew orders or electronic monitoring imposed with observance of Rules 23 and 55 of the European Rules;
- conditional release from prison followed by post-release supervision.

The main international bodies have strong, clear messages about the need for alternative sanctions. The United Nations, in its “Standard Minimum Rules for Non-custodial Measures” (The Tokyo Rules) 91 Rule 2 (3)<sup>30</sup> states that: “In order to provide greater flexibility consistent with the nature and gravity of the offence, with the personality and background of the offender and with the protection of society and to avoid unnecessary use of imprisonment, the criminal justice system should provide a wide range of non- custodial measures, from pre-trial to post-sentencing dispositions. The number and types of non-custodial measures available should be determined in such a way so that consistent sentencing remains possible.”

### 55.3 Comments from the review

Notable points from the information provided include that the maximum order for community service is 2,200 hours. This is approximately 10 times the maximum in European countries. The sanction of conditional release can include specific conditions of a surveillance or rehabilitation nature.

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<sup>29</sup> CONCEPT OF NEW CRIMINAL CODE OF THE ARMENIA (Appendix to RA Government Protocol Decision N 25 Dated June 4, 2015)

<sup>30</sup> The United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) 91 Rule 2 (3)

## **56. Diversion schemes**

### 56.1 Response from the MoJ

Such schemes are not available in Armenia.

### 56.2 Relevant International Standards

CoE Rec. on Community Sanctions (Guiding principles for achieving a wider and more effective use of community sanctions and measures): "Provision should be made for a sufficient number of suitably varied community sanctions and measures of which the following are examples . . . . victim compensation/ reparation/ victim-offender mediation".

### 56.3 Comments from the review

Diversion is an increasingly important aspect of a modern penal system. Fortunately there are some good lessons to be learned from the way it has developed in neighbouring Georgia.

## **57. Plans to introduce new alternative sanctions**

### Response from the MoJ

Expanding the list of types of punishments and introduction of effective mechanisms for their application is one of the key issues defined in the concept of the new Criminal Code of Armenia. Application of alternative punishment has, in effect, a punitive character but is not related to isolating a person having committed criminal offence from the society and breaking his or her social ties. Consequently, in addition to types of alternative punishment defined in the acting Criminal Code of Armenia the concept of the new Criminal Code of Armenia provides the following types of alternative punishment:

- (1) limitation of freedom;
- (2) limitation of public rights;
- (3) extradition of a foreign national or a stateless person from the territory of Armenia;
- (4) house detention;
- (5) deprivation of parental rights.

### 57.2 Relevant International Standards

The information provided in relation to Sub-section 55 is relevant to this item.

### 57.3 Comments from the review

The proposal to limit "public rights" could be alarming but no further details are available. Commentators routinely propose that a specific sentence of probation should be available in the Criminal Code<sup>31</sup> and that Armenian formulation of "conditional non-application of punishment" is flawed.

## **58. Percentage use of alternative sanctions**

### 58.1 Response from the MoJ

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<sup>31</sup> E.g. "Probation: a European Perspective" unpublished paper produced in 2012 by Randel Barrows for a CoE project in Ukraine.

During the year of 2014 the DAS has registered 2,227 convicts. Fines have been imposed on 62, and public works have been imposed on 288 of them, with regard to 154 of whom punishment has been suspended since they are under imprisonment, and 399 convicts have been deprived of the right to hold certain positions or to engage in certain activities.

#### 58.2 Relevant International Standards

CoE Rec. on Community Sanctions (Rule 27): To the greatest possible extent research should enable comparisons to be made of the effectiveness of different programmes.

CoE Rec. on Community Sanctions (Rule 28): Statistics should be developed that routinely describe the extent of use and the outcomes of community sanctions and measures.

#### 58.3 Comments from the review

We can assume that the remaining 59% (903 persons) were supervised under conditional release.

A more typical figure for European countries would be 10%. Further comparison would require more details to be provided, such as the gravity of the crimes involved and the number of previous convictions. European probation services tend to focus their efforts on a smaller number of high risk offenders who would otherwise attracted a custodial sentence.

### **59. Use of “conditional sentence”**

#### 59.1 Response from the MoJ

Actual numbers of persons given “conditional sentence” were provided for the five years from 2010:

920 — in 2010  
541 — in 2011  
762 — in 2012  
818 — in 2013  
834 — in 2014

#### 59.2 Relevant International Standards

CoE Rec. on Prison Overcrowding (Appendix 2): “Probation [should be] an independent sanction imposed without the pronouncement of sentenced to imprisonment”.

#### 59.3 Comments from the review

The final number of 834 for the year 2014 is not the same (903) as was given for Sub-section 58 (This may be because of an error or different criteria for allocating cases). Taken together with the information provided in the Sub-section 58 (Percentage use of alternative sanctions), these figures suggest that the vast majority of alternative sanctions were conditional sentence.

It would be interesting to know what proportion of offenders sentenced to “conditional sentence” were actively supervised by probation staff. According to European experience – which may not be relevant – most convicted offenders who are not sent to prison do not require active supervision. Financial penalties or community service are the favoured sanctions for this group. The efforts of the probation service would normally be concentrated on a troublesome minority, perhaps no more than 20% of those not sent to prison.

### **60. Success of supervised alternative sanctions**

### 60.1 Response from the MoJ

2,227 convicts were registered during the year of 2014 in the DAS, from which 2,185 convicts have not committed any new crime.

### 60.2 Relevant International Standards

CoE Rec. on Community Sanctions (Rule 27): To the greatest possible extent research should enable comparisons to be made of the effectiveness of different programmes.

CoE Rec. on Community Sanctions (Rule 28): Statistics should be developed that routinely describe the extent of use and the outcomes of community sanctions and measures.

Tokyo Rule 2 (4) states that: "The development of new non-custodial measures should be encouraged and closely monitored and their use systematically evaluated."

### 60.3 Comments from the review

In a busy office that lacks electronic data systems, it is difficult to collect statistics. However, without such information it is impossible to manage resources or understand how to improve effectiveness.

## **61. Imposition of conditional sentence**

### 61.1 Response from the MoJ

Conditional non-application of punishment was terminated on the ground of committal of a new as follows:

- for 7 convicts during the year of 2010;
- for 18 convicts during the year of 2011;
- for 13 convicts during the year of 2012;
- for 11 convicts during the year of 2013;
- for 7 convicts during the year of 2014.

### 61.2 Relevant International Standards

CoE Rec. on Community Sanctions (Rule 27): To the greatest possible extent research should enable comparisons to be made of the effectiveness of different programmes.

CoE Rec. on Community Sanctions (Rule 28): Statistics should be developed that routinely describe the extent of use and the outcomes of community sanctions and measures.

### 61.3 Comments from the review

These figures provided by the MoJ appear to refer to offenders given "conditional release" from prison. The proportion that have been recalled to prison is extremely low. Likely explanations could include the fact that a significant proportion of offenders given immediate custodial sentences are no risk and not particularly delinquent. Perhaps it indicates that most of these people could be given an alternative sanction instead of a custodial sentence.

## **62. Electronic monitoring**

### 62.1 Response from the MoJ

No electronic monitoring currently exists in Armenia.

## 62.2 Relevant International Standards

CoE Rec. on EM (Rules 57): When electronic monitoring will be used as part of probation supervision, it shall be combined with interventions designed to bring about rehabilitation and to support desistance.

## 62.3 Comments from the review

Requiring someone to stay in their home for part or whole of the day is an effective punishment and in many cases would be preferable to a prison sentence. However, on its own it is unlikely to help the offender to understand why he or she got into trouble or the changes in attitudes and behaviour required to live a crime-free life. Research evidence from the utilisation of electronically monitored curfews in European countries confirms that the sanction does not affect reoffending. For this reason the CoE Rules on Electronic Monitoring recommend that the sanction should be coupled with rehabilitation services.

## **63. Success of electronic monitoring**

### 63.1 Response from the MoJ

No electronic monitoring currently exists in Armenia.

### 63.2 Relevant International Standards

CoE Rec. on Community Sanctions (Appendix 1): Statistics should be developed that routinely describe the extent of use and the outcomes of community sanctions and measures.

### 63.3 Comments from the review

It is recognised that it requires resources to collect and analyse statistical information. However, without this kind of data it is not possible to monitor service standards for the effectiveness of policies.

## **GENERAL OBSERVATIONS ON SECTION 8: ALTERNATIVE SANCTIONS AND PROBATION**

**Lack of public support.** Support for Alternative Sanctions is not universal across all members of society in European countries. In most cases, this can be attributed to lack of understanding about offender management.

**Separating or integrating penitentiary and probation.** In some EaP countries, such as Ukraine and Azerbaijan, the department within the Penitentiary Service that has inherited the Soviet-style supervision of released prisoners is in the process of transforming itself into a modern Probation Service. Other countries have preferred probation to be established separately from the penitentiary service.

**Effectiveness of community sanctions.** There is good evidence to show that community supervision combined with rehabilitation programmes perform better than imprisonment for most mid-range offenders. Research undertaken by the MoJ for England and Wales shows that reoffending is significantly lower if prisoners are given compulsory supervision for at least 12 months after release<sup>32</sup>. Expenditure on such a service is judged to be good value for money and was a key factor in widespread reforms introduced there at the beginning of 2015.

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<sup>32</sup> Ministry of Justice (2013) 2013 Compendium of re-offending statistics and analysis, London: Ministry of Justice



## **RECOMMENDATIONS FOR SECTION 8: ALTERNATIVE SANCTIONS AND PROBATION**

**Strategic support.** The introduction of the Probation Service should be given the appropriate support through the staging of a range of round tables that involve key stakeholders such as judges, politicians and MoJ officials in order that the role and responsibilities of the modern Probation Service are understood.

**Training standards.** Work should be undertaken with national education and training institutions in order to make probation officer training as high a quality of that which exists in other European countries.

**New sanctions.** Additional sanctions should be designed to promote a greater range of services for the rehabilitation of offenders.

**Data.** The collection of statistical data should be improved in order that the all sanctions can be compared for effectiveness.

**Probation activities in penitentiary establishments.** The level of rehabilitation activity in penitentiary establishments is limited. When established, the probation service should plan to play a role in developing and staffing pre-release courses in all penitentiary establishments.

## SECTION 9. AFTERCARE

### 64. After-care organisations

#### 64.1 Response from the MoJ

"Rehabilitation Centre for Offenders" State Non-Commercial Organisation of the MoJ was established upon Decision of the Government of Armenia No 2118-N of 3 December 2005. The essential mission of the Centre is to promote the correction, social rehabilitation and reintegration of offenders, prevention of recidivism and to increase the level of security of the society through cultural, educational, training, sports and social-psychological programmes and services.

Beneficiaries of the "Rehabilitation Centre for Offenders" are the following:

- persons (particularly minors) serving their punishment in penitentiary establishments;
- persons serving alternative punishment;
- persons released from punishment, and those taken under supervision;
- families of persons serving their punishment, particularly children.

The Rehabilitation Centre for Offenders renders the following services:

1. Educational: Educational courses in penitentiary establishments for persons serving alternative punishment, released from punishment, taken under supervision (in particular minors), as well as for the members of their families.
2. Cultural: Courses aimed at developing creative abilities of persons in penitentiary establishments (miniature and design, pottery and art of jewellery making, ceramics, wood crafts and glass painting). Organising in penitentiary establishments events for persons serving alternative punishment, released from punishment, taken under supervision, as well as for members of their families and particularly children (theatrical performances, movie screening, art exhibitions, as well as exhibitions of items prepared by convicts, fairs, etc.).
3. Sports: Organising sports programmes and events aimed at maintaining the physical health of persons under supervision, promoting healthy lifestyle, as well as ensuring the harmonious physical development of minor convicts in penitentiary establishments.
4. Psychology: Activities in penitentiary establishments relating to individual consulting and group psychology with persons serving alternative punishment, released from punishment, taken under supervision, members of their families, especially children. (Attach the pictures of psychological activities)
5. Social. Social assistance provided to persons serving their punishment in penitentiary establishments or in an alternative form, those under supervision, and their families, oriented at persons serving their punishment, aimed at solving the social issues of their families, their reintegration into the society, finding employment.
6. Research: Organising conferences, creating information and statistics databases, carrying out analyses and surveys, preparing informational and analytical materials and literature.

#### 64.2 Relevant International Standards

CoE Probation Rules (Rule 62): Once all post-release obligations have been discharged, probation agencies may continue, where this is allowed by national law, to offer aftercare services to ex-offenders on a voluntary basis to help them continue their law-abiding lives.

The UNODC report suggests that recidivism in many European countries might be significantly reduced if prisoners were better prepared to make the transition back into their communities. And also, if the communities to which they were returning were more responsive to their resettlement needs. Clearly finding employment is a priority because ex-prisoners meet significant barriers in finding work. However, other needs include the re-establishing social and family ties and possibly avoiding the temptations of drugs.

### 64.3 Comments from the review

The work of the Rehabilitation Centre is impressive. The services it provides are a good template for replication elsewhere in the country. Unfortunately, the contribution of NGOs is very limited and this should be an issue for the MoJ to examine closely. General experience in European countries is that a diverse NGO sector can provide very good services more cheaply than government departments.

## **65. Formal aftercare agreements**

### 65.1 Response from the MoJ

Pursuant to Annex 14 of Decision of the Government of Armenia No 534-N of 14 April 2014, persons having returned from the place of imprisonment are considered to be non-competitive in the labour market. Pursuant to Annex 15 of the aforementioned Decision, in case of employment of non-competitive persons in the labour market upon the recommendation of the territorial centres of the State Employment Agency of the Staff of the Ministry of Labour and Social Affairs of Armenia, a partial reimbursement of salary is provided to the employer.

The provision of the support is aimed at promoting employment of non-competitive persons in the labour market through partial reimbursement of the salary given to non-competitive persons by the employer and thus, ensuring stable employment.

The State Employment Agency of the Ministry of Labour and Social Affairs of Armenia, the Penitentiary Department of the MoJ of Armenia and "Social Justice" non-governmental organisation signed a Memorandum "On cooperation and mutual support" stressing the importance of issues related to crime prevention and — within that context — reintegration of persons having returned from the places of imprisonment into the society. Within the scope of the Agreement the parties have agreed to cooperate in the following directions:

- provision of consultation on vocational guidance and information on state guarantees of employment prescribed by the legislation and job opportunities for convicts kept in the penitentiary establishments, registered in the units for the execution of alternative punishments and those serving their punishment;
- referral of persons released from punishment to the relevant units;
- organisation of joint conferences and meetings with the participation of organisation and state bodies concerned;
- provision of information on labour market on a regular basis.

### 65.2 Relevant International Standards

EPR (Rule 107) contains relevant standards in relation to after-care:

107.4 Prison authorities shall work closely with services and agencies that supervise and assist released prisoners to enable all sentenced prisoners to re-establish themselves in the community, in particular with regard to family life and employment.

107.5 Representatives of such social services or agencies shall be afforded all necessary access to the prison and to prisoners to allow them to assist with preparations for release and the planning of after-care programmes.

### 65.3 Comments from the review

Whilst the activities described are of vital importance and should be applauded it is unlikely that such activity is sufficient to meet the needs of what may be more than 1000 offenders completing their sentences each year. It also appears that much of the work of the NGO is with offenders who are still serving their sentences.

However, a wider range of services that can support offender rehabilitation are potentially available from the statutory agencies. These include education, employment and healthcare. Formal agreements need not necessarily involve the transfer of funds. Often initiatives taken by the probation service can help offenders to gain access to services that are available to them by right as citizens but which they do not feel comfortable to approach.

## **66. Other aftercare initiatives**

### 66.1 Response from the MoJ

Initiatives aimed at correction of criminal offender may be undertaken by non-governmental organisations.

### 66.2 Relevant International Standards

CoE Probation Rules, in the section in which it defines the terms, offers the following definition of aftercare: "Aftercare: means the process of reintegrating an offender, on a voluntary basis and after final release from detention, back into the community in a constructive, planned and supervised manner. In these rules, the term is distinguished from the term "resettlement" which refers to statutory involvement after release from custody."

CoE Probation Rules (Rule 62): "Once all post-release obligations have been discharged, probation agencies may continue, where this is allowed by national law, to offer aftercare services to ex-offenders on a voluntary basis to help them continue their law-abiding lives."

### 66.3 Comments from the review

Continuing support for the most vulnerable ex-prisoners can be an effective way of helping them to avoid further crime and problems for the community. Official government services have an important part to play, but NGOs can provide the flexibility and approachability that is important for ex-prisoners, who are often very suspicious of official organisations Grants towards their operating costs by government usually result in good quality support at attractive overall costs.

## **67. Re-offending after release**

### 67.1 Response from the MoJ

The penitentiary service does not keep statistics on recidivism of persons released after having served the full punishment.

### 67.2 Relevant International Standards

CoE Rec. on Parole (Rule 45): Statistics should be kept on such matters as the number of prisoners granted conditional release in relation to eligibility, the length of the sentences and the offences involved, the proportion of time served before the granting of conditional release, the number of

revocations, reconviction rates and the criminal history and socio-demographic background of conditionally released prisoners.

### 67.3 Comments from the review

European countries are accustomed to over half of their prisoners being convicted of a further crime within two years of release. For young adult offenders the proportion is much higher. For older offenders guilty of more serious crimes the reoffending rates are low. It is very interesting to note that, in general, officially recorded reoffending rates are very much lower in EaP countries.

### **RECOMMENDATIONS FOR SECTION 9: AFTERCARE**

**Government support.** The Government must seek the means of supporting both the statutory organizations and the NGO community in their will to support released offenders after the Criminal Justice System has completed its work.

**Partnership agreements.** The MoJ should develop partnership agreements with the Social Welfare Department, Health Department and the Education Department, in order that the statutory services are better able to reach ex-prisoners.

**Social re-integration centres.** Special centres should be developed for the social re-integration of offenders. The more informal approaches that NGOs can offer will be more attractive to ex-prisoners, who have mostly come to mistrust the official agencies of the government. NGOs are more able to adapt their approaches in the light of experience than government services that may require changes in legislation.

## **SECTION 10. DATA AND STATISTICS**

### **68. Overcrowding statistics**

#### 68.1 Response from the MoJ

The MoJ of Armenia does not keep statistics reflecting the level of overcrowding in the penitentiary establishments of Armenia.

#### 68.2 Relevant International Standards

CoE Rec. on Prison Overcrowding (Article 5): “In order to devise a coherent strategy against prison overcrowding and prison population inflation a detailed analysis of main contributing factors should be carried out, addressing in particular such matters as the types of offence which carry long prison sentences, priorities in crime control, public attitudes and concerns and existing practices”.

CoE Rec. on Parole (Article 45): Statistics should be kept on such matters as the number of prisoners granted conditional release in relation to eligibility, the length of the sentences and the offences involved, the proportion of time served before the granting of conditional release, the number of revocations, reconviction rates and the criminal history and socio-demographic background of conditionally released prisoners.

#### 68.3 Comments from the review

It is likely that the MoJ retains detailed figures about prisoner numbers which can be matched to the certified number of available places in each penitentiary establishment. This is clearly an essential tool for assisting population management.

### **69. Re-offending statistics**

#### 69.1 Response from the MoJ

Every year the DAS prepares quarterly, semi-annual, nine-month and annual reports. The reports include information on how many persons were registered in terms of the type of punishment or supervision, whether it was a new crime and whether or not a new judgement has been delivered with regard thereto.

#### 69.2 Relevant International Standards

CoE Rec. on Prison Overcrowding (Article 5): “In order to devise a coherent strategy against prison overcrowding and prison population inflation a detailed analysis of main contributing factors should be carried out, addressing in particular such matters as the types of offence which carry long prison sentences, priorities in crime control, public attitudes and concerns and existing practices”.

CoE Rec. on Parole (Article 45): Statistics should be kept on such matters as the number of prisoners granted conditional release in relation to eligibility, the length of the sentences and the offences involved, the proportion of time served before the granting of conditional release, the number of revocations, reconviction rates and the criminal history and socio-demographic background of conditionally released prisoners.

#### 69.3 Comments from the review

The collection of data has grown in priority over the past 20 years. It is now universally accepted that collecting data on reoffending rates is one of the most important methods of understanding the

effectiveness of a countries Criminal Justice System. The response from Armenia indicates that data collection is significantly under-developed.

It is necessary to record and analyse criminal justice statistics so that agencies can gauge the effectiveness of their services. As justice systems seek to reduce reoffending rates, and find an appropriate balance between punitive and rehabilitative regimes, data collection and analysis is vital. However, it is always difficult to find the resources that this requires.

In some countries, examination of data has indicated that short prison sentences for mid-range offenders can often make them more criminally minded. Such conclusions can be drawn, for example, from a careful analysis of the criminal statistics published by the Ministry of Justice for England and Wales<sup>33</sup>.

## **70. Statistics on re-offending**

### 70.1 Response from the MoJ

The penitentiary service does not keep statistics on the recidivism for different groups.

### 70.2 Relevant International Standards

CoE Rec. on Community Sanctions (Rule 28) states: Statistics should be developed that routinely describe the extent of use and the outcomes of community sanctions and measures.

### 70.3 Comments from the review

With the introduction of a Probation Service, the collection of data on breach during sentence and reoffending rates after completion will be essential to appreciate the service's effectiveness. It will also be essential in order to compare Probation Service data on reoffending rates and the rates for released prisoner, both full term and early conditional release.

## **71. Other data relevant to overcrowding**

### 71.1 Response from the MoJ

Any other statistics important for reduction of overcrowding in the penitentiary establishments is not kept in the MoJ of Armenia.

### 71.2 Relevant International Standards

CoE Rec. on Prison Overcrowding (Article 5): "In order to devise a coherent strategy against prison overcrowding and prison population inflation a detailed analysis of main contributing factors should be carried out, addressing in particular such matters as the types of offence which carry long prison sentences, priorities in crime control, public attitudes and concerns and existing practices".

CoE Rec. on Parole (Article 45): Statistics should be kept on such matters as the number of prisoners granted conditional release in relation to eligibility, the length of the sentences and the offences involved, the proportion of time served before the granting of conditional release, the number of revocations, reconviction rates and the criminal history and socio-demographic background of conditionally released prisoners.

### 71.3 Comments from the review

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<sup>33</sup> <https://www.gov.uk/government/collections/proven-reoffending-statistics>

The 2010 report of the International Statistics on Crime and Justice stated: “Another, even more disturbing observation that has been made repeatedly is that many member states continue to be unable to answer the questionnaire produced by the United Nations Surveys on Crime Trends and the Operations of Criminal Justice Systems (UN-CTS), or are only able to provide a partial response. This state of affairs is in part due to a very basic reason: some or all of the required data are not available. However, less excusable is the situation for many other countries that are known to possess the required data but do not respond.”<sup>34</sup>

It is difficult for this review to judge whether further investment by the MoJ in data processing is likely to assist with the decisions they need to take in relation to the management of the prison population.

## **72. Use of data for informed policy**

### 72.1 Response from the MoJ

Pursuant to sub point 2 of point 8 of Annex 1 approved by Decision of the Government of Armenia No 1917-N of 28 November 2002 “On establishing "Staff of the MoJ of Armenia" state administration institution, approving the Statute and the structure of the staff of the MoJ of Armenia”, policy development and methodological guidance for the activities of the penitentiary service are carried out by the MoJ of Armenia.

### 72.2 Relevant International Standards

CoE Rec. on Prison Overcrowding (Article 5): “In order to devise a coherent strategy against prison overcrowding and prison population inflation a detailed analysis of main contributing factors should be carried out, addressing in particular such matters as the types of offence which carry long prison sentences, priorities in crime control, public attitudes and concerns and existing practices”.

CoE Rec. on Parole (Article 45): Statistics should be kept on such matters as the number of prisoners granted conditional release in relation to eligibility, the length of the sentences and the offences involved, the proportion of time served before the granting of conditional release, the number of revocations, reconviction rates and the criminal history and socio-demographic background of conditionally released prisoners.

### 72.3 Comments from the review

Although this answer locates the responsibility for the use of data to inform policy, it does not describe the current scope of what is collected. Informal observations suggest that a considerable amount of data is collected and transmitted manually but that systems for recording and analysing it on computers are very limited.

## **GENERAL OBSERVATIONS ON SECTION 10: DATA AND STATISTICS**

**Computer systems.** More reliable data, and sophisticated analysis, will allow improvement targets to be set for each part of the penal system. The introduction of computers to automate this work will require a significant investment in suitable software.

## **RECOMMENDATIONS FOR SECTION 10: DATA AND STATISTICS**

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<sup>34</sup> The UNODC in their report ‘International Statistics on Crime and Justice (European Institute for Crime Prevention and Control, Affiliated with the United Nations(HEUNI) P.O.Box44 and United Nations Office on Drugs and Crime(UNODC) POBox5 1400Vienna Austria - HEUNI Publication Series No. 64 2010



**Data policy.** The MoJ is recommended to discuss and agree a whole range of methods for data and statistical collection in order that there is an understanding of effectiveness in the different methods of offender and sentence management. Countries in Western Europe and the CoE can provide examples of best practice in order that Armenia can develop its own approach.

**Measuring effectiveness.** A standard system, readily understandable to all, should be agreed for measuring the effectiveness of penitentiary sentences and community sanctions. This is necessary for making key decisions about justice reform in the allocation of resources. It would be preferable if the factors involved were similar to those that are prominent international – such as the proportion of offenders who avoid further offending for two years following the completion of the sanction.

## **SECTION 11. CRIME AS A WHOLE COMMUNITY RESPONSIBILITY**

### **73. Community crime prevention initiatives**

#### 73.1 Response from the MoJ

Pursuant to Decision No 1254-N, dated 6 November 2014 on the procedure for organizing the activities of community police, approved by the Government of Armenia, the residents of district, on voluntary basis, are forming community council and are actively cooperating with NGOs, presenting petitions regarding issues of concern to the state government and local government bodies.

#### 73.2 Relevant International Standards

CoE Probation Rules (Rule 98): Where provided by national law, the expertise and experience of probation agencies shall be used in developing crime reduction strategies. This may include making use of joint interventions and partnerships.

CoE/CM Rec(2003)21 concerning partnership in crime prevention (Article 1): Nationally, governments should commit themselves and co-ordinate their initiatives to develop and implement policies and strategies for crime prevention and community safety (for example, by way of creating national crime prevention councils, adopting national crime prevention programmes etc.).

#### 73.3 Comments from the review

The development of community organizations to debate crime is in their infancy. The MoJ can take a lead in encouraging community-based schemes related to tackling crime alongside the police. Across Europe there is much to be celebrated as best practice and examples (i.e. the UK the 'Neighbourhood Watch Schemes') in which volunteers from the community take an interest in the general safety and security of their neighbourhood and liaise with the police.

It may be that this is a topic for a future donor projects. At present, it would be difficult to justify mainstream investment in community crime prevention. Naturally, any effective initiatives of this type would have widespread value, but careful experimentation would be necessary in order to make decisions about what approaches would be cost-effective.

### **74. Civil society monitoring of prisons**

#### 74.1 Response from the MoJ

Pursuant to Article 21 of the Penitentiary Code of Armenia, public supervision in penitentiary establishments and bodies of the MoJ of Armenia is carried out by a Group of public observers, which is a monitoring body dealing with issues of protection of the rights and freedoms of persons kept in penitentiary establishments. The composition and competence of the Group is prescribed by Order of the Minister of Justice of Armenia No KH-66-N of 18 December 2005. The Group may consist of no less than seven and no more than twenty one persons. Each non-governmental organisation may have one representative in the Group.

Pursuant to Article 47 of the Law of Armenia "On treatment of arrested and detained persons", "Public supervision over the activities of the police holding facilities and detention facilities shall be carried out by a Group of public observers formed by the head of the respective authorised body. The procedure for exercising public supervision over police holding facilities and detention facilities, as well as the composition and competence of the Group of public observers shall be established by the head of the respective authorised body. The number of members of the Group of public observers may not exceed twenty one. The term of office of a member of the Group of public observers shall be three years". Apart from this group, civil society organisations exercise supervision over places of detention in the frames of the National Preventative Mechanism created

under the Optional Protocol to the UN Convention against Torture (OPCAT). A number of experts from NGOs are engaged and work together with the staff of the Ombudsman.

#### 74.2 Relevant International Standards

EPR (Rule 93.1): The conditions of detention and the treatment of prisoners shall be monitored by an independent body or bodies whose findings shall be made public.

EPR (Rule 93.2): Such independent monitoring body or bodies shall be encouraged to co-operate with those international agencies that are legally entitled to visit prisons.

#### 74.3 Comments from the review

The arrangements for public accountability of prisons and police are set within legislation. They are a valuable means of safeguarding human rights within environments that are often challenging. This system could be used to provide information and opinions on the performance of the whole justice sector in its move from a punitive to a rehabilitative focus.

Prisons inevitably are closed institutions and even the most effective management and supervision cannot guarantee that appropriate standards of behaviour by staff and prisoners will always apply. Civil monitoring should stand alongside a proper system of management inspections and the ability for staff and prisoners to make complaints that will be properly investigated.

### **75. Publicity for crime reduction**

#### 75.1 Response from the MoJ

Pursuant to Decision No 1254-N, dated 6 November 2014 on the procedure for organizing the activities of community police, approved by the Government of Armenia, during the meetings with the residents the issue regarding police jurisdiction and the issues of concern of public are discussed, once every quarter the report on the activities carried out is presented to the population of the community, using mass media and other means of public information.

#### 75.2 Comments from the review

Community police often thought to be in a good position to encourage crime reduction activities in residential neighbourhoods. However, they may have their limitations as direct providers because of their close association with the justice system. Additional approaches should be borne in mind that emphasise strengthening communities with social activities – particularly aimed at high risk groups such as young adults experimenting with drugs - to provide constructive alternatives and routes into employment or further education.

### **76. Encouraging reform of offenders**

#### 76.1 Response from the MoJ

Pursuant to point 3 of Annex of Order of the Minister of Justice of Armenia No 44-N of 30 May 2008 "On approving the procedure for the activities of structural subdivisions carrying out social, psychological and legal activities with detained persons and convicts", the objective of subdivisions of the penitentiary service, carrying out social, psychological and legal activities (hereinafter referred to as "the subdivisions") is the social rehabilitation of detained persons and convicts kept in penitentiary establishments of the MoJ of Armenia and contribution to the correction of convicts.

Point 4 of the above mentioned Annex defines that the tasks of social, psychological and legal activities, carried out by the structural subdivisions carrying out social, psychological and legal activities with detained persons and convicts are the following:

1. establishment, maintenance and development of socially useful ties and contacts of detained persons and convicts with the external world;
2. maintenance and strengthening of mental health of detained persons and convicts;
3. contribution to the legal, psychological and social protection of detained persons and convicts;
4. contribution to the development of working, educational, cultural, sporting, creative activities of detained persons and convicts;
5. contribution to satisfying the spiritual needs of detained persons and convicts;
6. contribution to demonstration of law-abiding behaviour, increasing legal consciousness of detained persons and convicts;
7. contribution to the formation of respectful attitude of detained persons and convicts towards coexistence rules and traditions of the society;
8. creation of conditions for social rehabilitation and early conditional release of convicts;
9. contribution to the reintegration of convicts into the society.

### 76.2 Relevant International Standards

CoE Probation Rules makes reference to this matter:

(Preamble): Considering that the aim of probation is to contribute to a fair criminal justice process, as well as to public safety by preventing and reducing the occurrence of offences;

(Rule 76): Interventions shall aim at rehabilitation and desistance and shall therefore be constructive and proportionate to the sanction or measure imposed.

### 76.3 Comments from the review

The MoJ describes a worthwhile list of services. Nevertheless, compared to European practice, it seems to emphasise ways of giving help to individuals. Recent developments in European countries show a preference for training offenders to manage their own affairs more effectively. It would be useful to explore the extent to which Armenia is ready to develop approaches such as offending behaviour programmes and social skills training.

## **GENERAL OBSERVATIONS ON SECTION 11. CRIME AS A WHOLE COMMUNITY RESPONSIBILITY**

**Community responsibility.** Traditionally the subject of crime and punishment has been seen by the general public as only something that involves offenders and criminal justice agencies. The concept of crime prevention as something all living in a community should consider, is a relatively new concept. Alongside this can be put the subject of the rehabilitation of offenders. This must involve communities and support agencies within those communities, in order that re-socialisation and rehabilitation can operate. Many alternative sanctions including community service, are reliant on community support. The greater visibility in for certain sanctions such as community service, the greater understanding develops amongst the community.

**Restorative justice.** New methods of conflict resolution are developing in communities, which bring together statutory and voluntary organisations. Mediation is increasing in use and the idea of restorative justice provides opportunities for responses to be made outside the criminal justice system.

**Diversions.** Schemes including restorative justice and mediation are now gaining credibility throughout criminal justice services and civil society alike in many countries.

## **RECOMMENDATIONS FOR SECTION 11. CRIME AS A WHOLE COMMUNITY RESPONSIBILITY**

**Community-based crime reduction.** To develop a strategy on community based crime reduction that involves the main social agencies, civil society and local people in the most at-risk communities.

**Sector-wide monitoring.** To create an additional Monitoring Group consisting of civil society representatives, to observe the way the Justice process in its entirety is moving from a punitive to a rehabilitative regime. Such a group may have its sole purpose as being the monitor of change.

## **SECTION 12. FUNDING**

### **77. Investment in penitentiary system**

#### 77.1 Response from the MoJ

From the State Budget of 2015 funding is provided to the Penitentiary Department of the MoJ under two programmes:

- a. Under 03.05.01 "01. Maintenance of penitentiary system" programme AMD 10,746,466.4 thousands (approximately €20m) has been allocated;
- b. Under 07.01.01 «01. Provision of medicine to natural persons receiving outpatient-polyclinic and in-patient medical aid and those included in special groups" programme — AMD 43,000.0 thousands (approximately €80,000).

Funds allocated from the State Budget of Armenia are spent pursuant to the budget estimate based on the amount of sums provided for in the items of economic classification.

No contributions are made to the Penitentiary Department of Armenia from sources other than the means of the State Budget of Armenia.

#### 77.2 Comments from the review

This review does not have the means to make an assessment of the appropriateness of this level of funding.

### **78. Funding for future strategy**

#### 78.1 Response from the MoJ

In some cases, due to the lack of material resources, the funding fails to be sufficient for the full-fledged implementation of the envisaged programmes.

#### 78.2 Relevant International Standards

CoE Rec. on Community Sanctions (Rule 19): Criteria of effectiveness should be laid down so as to make it possible to assess from various perspectives the costs and benefits associated with programmes and interventions with the aim of maximising the quality of their results. Standards and performance indicators for the execution of programmes and interventions should be established.

#### 78.3 Comments from the review

It is not appropriate for the review to comment on this answer.

### **79. Sufficient resources**

#### 79.1 Response from the MoJ

Measures in the penitentiary field are constantly taken in Armenia aimed at solving the existing problems, however, the insufficiency of resources sometimes prevents from effectively addressing the existing problems. In particular, additional financial resources are necessary to be attracted for ensuring the continuous implementation of reforms in the penitentiary system, as well as for having new infrastructures in place.

#### 79.2 Relevant International Standards

We are not aware of international standards concerning the resources necessary for running penitentiary and probation services. Nevertheless CoE Rec. on Community Sanctions (Rule 42) has some relevance: The implementing authorities shall have adequate financial means provided from public funds. Third parties may make a financial or other contribution but implementing authorities shall never be financially dependent on them.

### 79.3 Comments from the review

Governments in Western European countries rarely operate their penitentiary services with anything like this shortfall in the necessary funding.

On average, governments in Western European countries divide their penal sector budget so that 75% is spent on their penitentiary service and 25% on their probation service. These figures can be deduced by analysing figures about finance and financial accountability in “Probation in Europe” by Kalmthout and Durnescu<sup>35</sup>. Experience has shown that a substantial investment in community sanctions and measures at this kind of level is necessary if they are to have a suitable impact on sentencing patterns. If the split of funding is any more in favour of the penitentiaries, the probation service will not have enough cash to attract suitable numbers of staff to provide properly supervised rehabilitation services.

### **GENERAL COMMENTS ON SECTION 12: FUNDING**

**Importance of coordination.** Funding is often given as the reason for the poor conditions that exist in the prison estate. The general message within this report is that although finance is important, of greater importance is the co-operation and co-ordination of each part of the Criminal Justice System, in order that they complement each other in their pursuit of a common mission.

**Inappropriate sentencing.** The start of a future strategy should involve all actors in the Criminal Justice sector in understanding how resources can be wasted in inappropriate sentencing - and how they can be harnessed more effectively for crime reduction and offender rehabilitation.

**Organisational efficiency.** Not all reforms are dependent on additional funds. Often significant improvements can be achieved through a radical re-evaluation of management systems and operational practice.

### **RECOMMENDATIONS FOR SECTION 12: FUNDING**

**Balanced budget.** A long-term target should be established for the relative resourcing of penitentiary and probation services within the overall corrections budget. It may be that the 75% – 25% split commonly found in European countries would be appropriate.

**Cost-centred budgeting.** Serious consideration should be given to determining the realistic unit costs of delivering each community sanction so that informed judgements about their relative value can be made. This might show, for example, that a new form of directly-supervised Community Service is achieving better reconviction rates than electronically monitored home detention – or vice versa.

### **80. Additional comments**

80.1 There are no additional comments regarding the Questionnaire.

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<sup>35</sup> Probation in Europe, A.M. van Kalmthout & I. Durnescu (eds.) ISBN: 978-90-5850-450-0. Published by aolf Legal Publishers (WLP) 2008

## CONCLUSIONS

The CoE is pleased with the interest that has been shown by the MoJ of Armenia for further cooperation to improve its penal services. The effort it has made to provide a great deal of information about the current situation and future plans indicate a willingness to explain problems as well as successes.

Reforms are being driven by a clear strategy that seeks to achieve international standards. The prison population is falling and the recent opening of a large new prison will be further encouragement to the process of developing regimes that can have a stronger, constructive impact on the prisoners. This sense of optimism is shared by the Alternative Sanctions Division of the State Penitentiary Service that supervises existing alternative sanctions. A new Law on Probation is in the final stages of drafting and the MoJ hopes to submit it to Parliament during the first quarter of 2016. A small group of NGOs active in the justice sector have helped to keep international standards in the public eye through conferences and publications.

This review has highlighted some of the challenges that face the MoJ. Although the rate of imprisonment has dropped to European levels, it should be lower still because crime rates are low. A transfer of funding from penitentiaries to alternative sanctions would allow far more middle range offenders to attend community-based rehabilitation programmes. Direct supervision of community service projects would enforce higher standards of work and behaviour that would impress judges when they are looking to divert an offender from prison. Whilst the level of use of pre-trial detention is not particularly high, efforts to provide courts with alternatives are known to have better long-term outcomes than custodial restraints. There is interest to introduce modern electronic improvements to community supervision but these will need to be used with care as they are more expensive than traditional methods and will only be of value if they really are targeted on offenders who would otherwise be in prison.

Perhaps the biggest challenge to be highlighted by this enquiry concerns parole. In European countries substantial period of early release, often measured in years rather than weeks, are a major part of offender management strategy. Persuading judges and prosecutors of the all-round benefits of parole will be a gradual process on which the Alternative Sanctions Division / Probation Service will need to work hard in close partnership with the Penitentiary Service to prepare prisoners for early release and to supervise them effectively when they are back in the community. Evidence of a higher quality than is currently being collected will be needed to demonstrate the positive impact this will undoubtedly have.

As the Probation Law starts to influence the sentencing of offenders, the MoJ should consider the possibility of making the probation order the cornerstone of its penal system, completely replacing imprisonment for middle range crimes. The recognition it would thus gain with justice professionals and the general public would help to reduce the unnecessary and harmful use of imprisonment for offenders who are not a threat to the well-being of the community.

The CPT sets some very high demands through its country inspections and general standards. Armenia wishes to follow this route and the CoE will join with the justice agencies and civil society to provide as much help as possible.



## **BIBLIOGRAPHY**