

**TAIEX Peer Review on Reforms in Judiciary, Penitentiary and  
Prevention of Torture and Ill-Treatment in Armenia**

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Draft Report

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## **Penitentiary**

### **General remarks**

A week, although a very intensive one, is a short period to do a follow up on the earlier CPT-report and the answers provided by the Armenian authorities, from 5-10 October 2015 and the response from October 2016. Maybe because of this and maybe because the picture presented by the various nationals we had the honor to meet was so multifaceted the impressions can best be described as mixed. The general picture presented by the national penitentiary authorities was that the various forms of criticism presented in the CPT-report were handled and taken care of or - in some cases -it was felt that the criticism was not based on real facts but were the results of having listened to individual prisoners and put too much trust in their biased version of conditions and circumstances.

This is, of course, not unusual. Everybody has his or her own perception and is entitled to that and things are not always black or white. The impression, in general, given to us from the various NGO:s we met was as full of criticism of the conditions in the penitentiary system as the one presented in the initial report. There seems to be an old Russian proverb saying that *“houses are new but prejudices are the same”*. In some cases, though, major progress has been achieved and many of the officials we encountered gave ample and positive support to that, as well as a few of the, unfortunately too few, inmates we had a chance to talk to.

The general impression, my general impression, is that the Armenian Penitentiary seems to have shown some progress, a lot more needs to be done and that some of the things that are lacking can be achieved with a little help from friends. Or to use the words of the director general for the Penitentiary administration: Bad habits are still prevailing in our field. There are lots of things to do but I see a positive development now. We want to keep up with the world.

### **Summary**

The Armenian Penitentiary system is still suffering from a Soviet heritage and barriers must be taken down on a number of areas to move away from this. At the same time this must be done with some respect to the public who in general will not be in favour of all necessary changes. Information before changes is crucial.

The infrastructure and general conditions are also an old heritage and not up to standards. To really move on Nubarashen prison needs to be abandoned or at least the number of inmates in there must be severely decreased.

The whole staffing situation is a major obstacle for moving forward. Technical staff are needed in higher numbers as well as regular prison officers. The prison officers are not sufficiently trained and not used optimally.

Prisoners are still kept in their cells to a very high degree and they are only activated marginally.

Because of remaining bad habits, and lack of staff, there are still remnants of an old Soviet instrument called watchers who in reality control and most probably punish other inmates.

Rehabilitation is a concept that is talked about but it needs to be put into practice in a whole new scale.

The new legal framework needs to be put in place.

The use of conditional release is not working optimally in general and e.g. prisoners sentenced to life imprisonment are not being pardoned or given a set sentence.

### **Context**

The basis for this report is the CPT report from 2015 and the responses to this from 2016. During the week in place we had the opportunity to meet relevant people as is shown in the agenda. The important meetings were, apart from the general ones with the EU delegation and others, the sessions with the NGOs and the heads of the Penitentiary as well as Probation. On top of this we visited the two major prisons in the country, the Nubarashen and the newly opened Armavir. Here the governors and their closest staff introduced us to the respective institutions and we also had a chance to walk fairly freely around the prison. We were given some time to speak to individual prisoners but this was limited by lack of time and difficulties to communicate. We spoke to some individually via interpreter and some that were able to express themselves in English.

During the tour of the institutions we were given the opportunity to visit the parts we wanted, in general, but were more hindered by the lack of time.

### **Analysis in relation to CPT report**

In this passage the purpose is to touch briefly on some of the issues brought up in the report and the responses to these. Some issues need to be elaborated on and then again some seem to be either of minor interest or dealt with properly already as far as we could see.

- **Overcrowding** is a relative concept. In some countries we talk of overcrowding as soon as there are more than one inmate in every cell/room. This concept does not apply to Armenia. The other common way of measuring is by giving a certain number of m<sup>2</sup> per inmate and this applies. In short overcrowding in this sense is no real problem, since the opening of Armavir prison. On the other hand some of the living quarters are still not meeting set standards. There are too many inmates together in order to offer decent conditions and privacy. Conditions are poor, not to say very poor in Nubarashen prison. These problems could best be taken care of by closing down the prison and moving gradually more inmates

to Armavir. In the mean time the objective should be to decrease the numbers in the biggest cells and work on closing down Nubarashen. Aiming at building another modern prison

The Armenian authorities do not seem to disagree with this opinion. It is phrased in their Response in their strategy programme so that *"...the construction of a new penitentiary establishment will be possible in case of relevant financial assistance"*.

It was said in the Armenian report that Armavir would be occupied to its full capacity by the end of 2016. Clearly this was not the case in March 2017. Several hundred beds or places were not activated or taken into use.

- **Conditions in prisons**

The comprehensive status report of conditions in prisons is that according to the responses delivered a lot of changes have been made and conditions are much better. Our opinion can only be on the new prison, Armavir, and the old one, Nubarashen. Dramatically it could be said that they are like heaven and hell, which is not true but it underlines the great differences. Armavir is a modern prison in many aspects. Not the best but in structure compares well to many other prisons in, e g, Europe. In design, technical standard, sizes of cells etc. The technical security seems to be of good quality too: perimeter security, camera surveillance e g.

Nubarashen resembles the prisons you could find in the beginning of the nineties after the fall of the Soviet Union, in the Baltic states. there are worse prisons in terms of hygiene, conditions for prisoners (space, ventilation, numbers in each cell/room etc). Having closed down the first floor has had positive effects in general, but still not fit for modern purposes. In the long run, hopefully even in the short run, it should be closed down. Focus in the mean time should be on decreasing the numbers in each cell and choosing the best cells for this purpose.

- **Purposeful activities** for sentenced as well as remanded prisoners is a major issue in the CPT report, i e the lack of this. In the response from the Armenian authorities a number of activities are listed to show progress. These activities range from different vocational activities such as household services, a sewing shop, a shoe manufacturing shop, over studies and vocational training to more activities to pass time and activate the inmates. In this latter category sporting activities are mentioned as well as cultural and religious activities. Numbers of inmates taking part in a whole range of activities are given, we suppose to show progress. This is all well and obviously steps forward.

The basic problem still remains, i e that these numbers are exceptions from the rule and the rule is to stay in your cell for the main part of the day, 20-23 hours a day were the numbers we were given in the prisons we visited. This quite obviously is one of the absolute key issues for the authorities, and one we will come back to later on in this report. The inmates must be allowed to spend more time outside their cells, for humanitarian reasons, for rehabilitative reasons and in

order to make prison officials more important for the inmates, to compete with the, most of the time, negative impact groups of inmates left alone have on each other.

- **Corruption**

The problem of corruption in the prison system is a problem the Armenian authorities share with many other countries. To the best of our understanding it is shared with many other parts of the Armenian society, but saying that “*combating corruption has and is under the constant spotlight of the Armenian authorities*” is not very helpful either. People in position that we talked to did not deny it is a problem. Some said, like it is phrased in the CPT report, that salaries for staff, mostly junior staff, are not enough to live on, making it even worse to deal with corruption.

Corruption also means that the problem of smuggling contraband into the prison that we were openly informed of, is difficult to handle. Smuggling drugs and maybe some sort of arms or cell phones makes it a security problem but is a logical consequence.

To make it even more complicated the situation seems to be that there are problems in recruiting staff and that in turn may makes you more reluctant to accuse staff of corruptive behavior or take away possibilities of making a little extra money. It makes a perfect vicious circle.

The measures described in the Armenian response to CPT seem to be of value, perhaps shown in the numbers of personnel handling internal security going up and the number of investigations into illegal practices going down. Certainly this is a good step but certainly not enough. The idea of a Hot line into authorities that was launched may be of some help, as well, but if people - prisoners and their family - do not trust the system it is of little value.

It is not impossible to stop contraband coming into prisons and thus taking away some of the basic prerequisites for corruption. This can be done with strict entrance control and having several and trained officers handling this, not alone. My country, Sweden, has proven this is possible.

Basically what is needed to interfere is good procedures, a trustworthy investigation system and, as is suggested by the authorities, paying unexpected visits works fine. However, a decent pay is a cornerstone in this and is also necessary for recruiting the right people. The practical way to start is at Armavir and - hopefully - the next new prison. Changing the culture in older prisons is going to be much harder.

**In short:** some of the right things seem to be done but there is a need for more.

- **Informal prison hierarchy - “watchers”**

In the CPT report some focus is put on this topic.

*“Prison staff must be especially alert to signs of trouble, pay particular attention to the treatment of vulnerable inmates by other prisoners, and be both resolved and properly trained to intervene when necessary. Resolute steps must be taken to put an end to the reliance on the informal prison hierarchy to maintain good order in prisons.”*

This proved to be a delicate issue. In the Armenian language there is a word that translated into English will be “*watcher*” meaning that there are inmates who are “*in charge*” of others and delivering punishments and keeping order. In the formal response, it is more or less denied that such a system exists and if signs of this can be noted the inmate who has such a role will be punished. In support for this, it is said that in the years 2015-2016 1.649 times had a prisoner been sent to punishment cell for “*attempting to establish hierarchical positions among convicts, as well as on those ignoring legitimate demands of the penitentiary officers*”. On the one hand having so many cases of something that in a sense does not exist or is no problem is a bit confusing. On the other hand the given number does not say how many of all these incidents belong in this category. It is a bit unclear.

The issue proved to be delicate when we brought it up. One answer was that “*hierarchical structures are to be found in any penitentiary system*”, which in a way may be true, but not in this particular fashion. It is true that e.g. in the old penitentiary systems in southern US prisoners were even given arms to handle and control their poor brothers in misery. Another answer was that “*this is a memory from the old Soviet system and we are fighting it and definitely not supporting it.*” Which most probably is true, or close to. The embarrassment we met when bringing it up shows that it is a concern and nothing that is talked about with pride.

Clearly one reason for having a system of this kind is to help control a prison or parts of it when there is a shortage of staff. The solution, if it exists, is to take, or regain, control which usually means there will be a need for more staff and having staff closer to the inmates. This in turn of course means efforts, possibly unpleasant conflicts with inmates. Clearly this system, if and where it exists, is unacceptable and part of a tradition the Armenian penitentiary system must disengage itself from.

- **Segregation of HIV-positive prisoners**

This question was brought up in the CPT report with a recommendation of putting an end to the practice of segregating inmates with this diagnosis. Furthermore it was recommended to give staff more and better training in how to handle this issue.

What the situation in this matter really is was not completely clarified. On the one hand side the authorities claim to give better training and information. On the other hand both governors we met, at Armavir and Nubarashen, both claimed they did not have prisoners with HIV in their prisons. The official approach, though, was said to be not keep them separated, but there is a tendency of “*natural separation*”, meaning that not infected inmates were afraid of catching the disease and thus wanted to stay away from the risk. This is a natural reaction and it does not

always suffice to give information to change attitude in this respect. Especially if it comes to sharing cell with someone who is HIV-positive.

Our recommendation would be to keep informing on the real dangers, how the infection is transmitted and at the same time try to normalize conditions as much as possible.

- **Health care**

The CPT report spends quite some time discussing health care issues. This is no surprise since this whole area is complicated, costs a lot of money and usually is not the first problem issue to solve when modernizing and upgrading a penitentiary service. It is costly, it is difficult to find - and pay - qualified staff and the needs and shortages are usually vast. Still, the recommendations are necessary to put into words, of course.

The impressions we got and can put into this report are, in short, that the ambitions are there, efforts are being made, but very much more needs to be done. To give one example. More professionals are needed but if a doctor is paid much less in prisons than outside, it is hard to compete.

On the positive side can be noted that Armavir prison is well prepared for an effective and modern prison health care. Most of the facilities are there. With Nubarashen it is a different story. It is even quite possible that the physical conditions in the prison actually work in the opposite direction. Being a prisoner there is not good for your general health conditions to put it mildly.

Also it seems that another issue brought to attention in the CPT report, that of having every newcomer brought into prison passing through a medical examination, seems to be accomplished - as far as we could see and hear. To document the result of this and to have the examination without supervision of regular prison staff is also accomplished, we were told but were not in a position to be able to verify.

With regards to psychiatric treatment the situation seems to be similar. Things are getting better. New staff are hired but there are the same difficulties here. Psychologists have been introduced to the system but the positions are not filled. They are paid better elsewhere. It is also true that introducing psychologists in a penitentiary system is a positive step forward but no guarantee for noticeable differences. If the psychologists are used for mainly individual treatment -which is in itself a good thing- the results will take years to be noticeable. Better to focus on groups, counselling of staff and other similar activities.

Our recommendations here are no different than in other areas. All the visions expressed by the authorities need to be taken further. More of everything: equipment, trained professional and technical staff, exercise, time outside cells etc.

- **The situation of those sentenced to life imprisonment**

According to information given there are around 100 inmates sentenced to life imprisonment. It has been said that all lifers are to be transferred to Armavir but as of today, the majority of them are still at Nubarashen. Formally, there is an opening for these people in the sense that after having served 20 years they are eligible to apply for release or a set sentence. We met inmates who had served those 20 years but so far had failed in having their sentence commuted. As far as we understood, no one had been given this opening.

Another issue from the CPT report was to have the life sentenced integrated into the main population. Apparently, it has not been possible to meet this demand for formal reasons but with a new penal code this will be possible. Certainly, this is a step in the right direction. Having said that it is a general opinion, from other countries, that life sentenced inmates do not always want to mix with others with shorter sentence, "*coming and going all the time*". It makes the pain and frustration only worse to be reminded of freedom this way.

We also understood that some inmates, among them life timers, did not want to be transferred from whatever prison to Armavir. They wanted to stay. This is also something you will find in many other countries. The reasons for this usually is that you know what you have but not what you get. Another reason can very well be that after having reached a certain position in the old prisons, maybe as watcher, you want to stay and guard your position. This should not be a reason to stop movement and usually the inmates will change their mind once they have settled in the new prison.

Another crucial issue is to make the privileges of the life sentenced more equal to those of others, to create some kind of steps closer to normalcy, after good behavior and time passed. As an incentive and to make steps towards openness more clear. Apparently, some changes in this direction have been made but there is more to do.

Recommendations would be to keep moving life timers away from Nubarashen, to make their conditions more like for the others, e.g. in terms of visits, and start or open up for more movement into semi-closed conditions. The opening up for conditional release will also be necessary, for humanitarian reasons and to have a calming effect on the situation in the relevant prisons in general. This whole concept, of course, needs an individualization of the inmates, to make conditions dependent on a risk and needs further assessment.

- **Staff**

The CPT report shows concern for prison staff and their conditions, all kinds of technical staff but chooses to focus on the ordinary prison officers. For good reasons. There are a number of problems, interdependent problems. First of all the low numbers, secondly their low salaries, thirdly their lack of adequate training and also how they are used and the structure of the working shifts. These factors are all relevant and they are interrelated.

The main problems in recruiting good staff in sufficient numbers seems to be the pay. Here it is agreed that making the profession more attractive is vital and this can be done in many ways but the conditions, mainly the salary, is the key issue.

As far as we could see the training offered does not promote the attractiveness in recruiting. There are plans for training but little seems to be implemented. This is absolutely necessary in creating a positive tradition in the profession, a pride to work in prisons and creating a feeling of belonging to a greater group of colleagues.

The working shifts, 24 hours, is another problem. This is a system that most countries have left. Everybody agrees that nobody can work effectively for that long. The authorities we talked to, some of them, agreed and they also agreed that one of the reasons for this is that without these shifts it would be even more difficult to recruit, because many officers rely on having another job as well, for financial reasons.

The numbers of staff in the prisons we visited were said to be low and they are, but it depends on what you compare with. There are countries that have less - and more. Here one of the problems seem to be that only a small number of staff are actually deployed in the areas where the inmates are. An example given said that out of a total of 290 staff at Armavir only 18 worked "inside". In the CPT report from Nubarashen it says that at the time there were 1.000 inmates in the prison but only around 30, at a given time, worked in the accommodation area. To turn this concept around is a challenge and will not help in recruitment because these positions are usually the hardest ones, the positions that most officers want to get away from - for obvious reasons.

In short, this whole situation presents a picture that is not easy to change, but needs to be changed with an over all approach. Even more so if, as will be further developed in the next passage of this report, you want to open up the system and have the inmates out of their cells more frequently and for longer periods.

## ● **Rehabilitation**

This whole report, and even more so the CPT report, focuses on problems that should be tackled and out of these most need resources to find, unknown where sometimes. At the same time, if there is a will to go on from the post-Soviet punitive approach - and certainly we felt this was the ambition and vision of many that we met- it needs to be done. Certainly not all at once but in due time.

After all it boils down to creating a penitentiary system that takes care of people sentenced to imprisonment to keep them away from the general public. To keep them safe. But the idea also is to while these people are in prison treat them in such a way that it enhances their chances of coming away from an old destructive life, once they are released. In order to do this more effort must be spent on rehabilitative measures. The influx of some professionals is a good step but the

real big step will be to normalize life inside as much as possible and to do this you have to open up the doors to the living quarters for more than single hours. This is the real key to start rehabilitation.

### **Recommendations - short term and long term**

- The staffing situation must be solved in order to make a real difference. Most other changes are dependent on this. It is probably necessary to raise the salary to a higher level but other things can be done to make the profession more attractive. It has been done in other countries. One part in this is to offer better staff training prior to employment. More technical staff is also needed.
- Staff should be used to a greater extent where the inmates are.
- The ambition must be to let the prisoners out of their cells more than is the case today.
- Activities and occupation for the inmates seem to be more frequent. More of this is desirable.
- The system called watchers must be abolished, in effect.
- The existing way of making individual risk assessments can be updated in order to place inmates in prisons, wings, cells more efficiently. This can be a basis for rehabilitation plans and also for good security, not use the same level of restrictions blindly.
- The new legal framework needs to be activated
- Rehabilitative measures should be given more space, in the short and long term
- Nubarashen needs to be replaced

### **Probation**

There is very little historical imprints of probation in Armenia. Although some of the traditional elements of probation, as we know the concept in Europe and most other parts of the world, were used before, modern history and practice is not older than having been introduced last year, in 2016 in July.

Before that some elements that are bundled together under the concept of “Alternative sanctions” were practiced since 2003. Exactly what was practiced is a bit unclear but there is reason to focus on what was introduced in 2016 - and how that came about.

To begin with it is felt , in the country, that the right thing to do is to separate probation from the

penitentiary system. The reasons for this, as it was presented to us, is that probation is a new concept and it serves the purpose best not to get too much influence from the penitentiary system which is an old system. A system that today is said to still be working to be separated from its punitive past, its post-Soviet heritage. These concepts were frequently used by the authorities. Punitive and post-Soviet past.

This is not the place to put too much emphasis on this issue. A contradiction is that the people who today work in probation come from the penitentiary system, with the exception of the one in charge of the whole system. In many countries the stress in corrections in general is to see it as two faces of the same coin, working with the same general objectives, clients. To have probation and the penitentiary work together also has the positive effect that officers can move from one area to the other and by doing so will be furthering integration and hopefully sharpening the methodological weapons used.

Let us not spend too much time on this issue. Hopefully the decision to keep these two agencies is the right approach for Armenia as of now.

### **Present status of probation in the country**

The impression we were given is that many good things have been done in researching prior to starting up. People we met had been on study visits abroad in relevant countries (including my home country Sweden!). The person who was leading the group or committee set up to organize the work beforehand was very well prepared and so did the people in actual leading positions that we met.

There was an impressive document shown to us that was to be used as a starting point for all clients. A risk and needs assessment manual and it was obviously based on findings from countries that are well on their way in probation. Very promising. Half the staff had been trained in using this instrument and the rest were to be.

The vision for probation that was presented to us was sound and promising. The start seemed to be ideal in most aspects. Now the problem is to get down to business. Put words and visions into action.

### **Challenges**

The platform seems to be laid out, as far as we could see from this short perspective. Now the work must be implemented.

- More staff recruited
- Wider variety of staff, wider background. More social workers, psychologists, more female staff
- Going from vision to reality
- Probably having more clients in the future if alternative sanctions will be used more widely

and if the use of conditional release will be expanded

### **Ways to give support**

There are several ways to support in this endeavor. Part of this may be:

- Study visits are good and gives information as well as inspiration but more important than this would be to send experienced probation officers from other countries to be in place, helping to go from words to action
- Help with further training and guidance as the work goes on
- Pairing up with one or two countries with much experience from probation and either with similarities in the judiciary system or with much experience in helping out in this fashion
- Since it was mentioned from the leadership that it was important to change the mentality of the staff, meaning thinking away from the Soviet punitive tradition, seminars can be arranged to stress new values and new way of thinking. International outlooks can certainly be of importance in doing this

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