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Table of Content

As a result of monitoring it became clear that:

- In some cases, the period of notifying relatives about detention took as long as one to 15 days. p. 12

- 40% of the surveyed detainees and their relatives had never attempted to get visit permission. p. 26

- 82% of the investigators state that visits are authorized very rarely. p. 26

- Only 14 out of 99 attempts to get such permission succeeded before the verdict. p. 27

- The reason given for over 60% of the refusals is that “the law does not stipulate visits.” p. 27

- Only four out of 22 investigators fully supported the idea of authorizing visits. p. 30

- During the last several years official authoriza- p. 33

Introduction

During the period from August to November of 2001 the Civil Society Development Union and the Union for the Protection of the Rights of Persons Deprived of Liberty and of Prisoners with the support of the Polish Helsinki Foundation for Human Rights and the financial assistance of the OSCE/ODIHR carried out a monitoring of implementation of the right to communicate with the outside world (notification on detention, visits, correspondence, receipt of parcels) in pre-trial isolators of the Republic of Armenia. The purpose of the monitoring was to study the possibility of detainees or arrested persons to inform relatives and friends of their detention or arrest and the place of detention, as well as to look into the conditions of granting and making visits by relatives and friends, the availability or lack of possibilities to keep in touch with families by means of correspondence, as well as the possibility and conditions of receiving parcels with the goal of discovering the real situation in this area and developing recommendations on amending the legislation and the existing practice.

The implementation of the monitoring during the aforementioned period of time gains a particular significance, because the accession of Armenia to the Council of Europe has generated additional interest in problems of implementation of human rights in places of deprivation of liberty. To clarify further, the

with existing international norms, as well as the fact that the practice of keeping detainees in pre-trial isolators of Armenia has proven that getting a visit at either the pre-trial stage or during the trial is rather difficult. The current legislation, namely the Criminal Procedure Code, which regulates the relations between the parties in the process, does not contain references to prohibition or permission of visits; the "Regulation on Pre-trial Custody in the Armenian Soviet Socialist Republic" dated 1969 that still remains in force only notes that visits and correspondence may be permitted by the body conducting the criminal process, but does not regulate specific cases triggering such permission.

The administration of pre-trial isolators permits visits only with the authorization of the body conducting the criminal proceedings. Pre-trial investigation may last from two months to one year and the court proceedings - even longer; thus, the suspect is deprived of the possibility of at least seldom meeting his/her relatives. As a consequence, the right to family life is violated. The OSCE/ODIHR Report on Problems of Pre-trial detention in the OSCE Area states that "ensuring the maintenance of contacts between detainees and their families and friends is crucial."

The monitoring was implemented by means of surveying and interviewing former detainees, their relatives, investigators,

the conditions of permitting and holding visits to detainees by their families and friends, the availability or lack of possibilities to maintain contact with families through correspondence, as well as the possibility and conditions of receiving parcels, with the goal of discovering the real situation in this area and developing recommendations on amending the legislation and the existing practice.

The monitoring revealed that visits are very rarely granted in pre-trial isolators. For example, per month an average of one out of a hundred detainees was permitted to have a visitor. Official authorization of correspondence was not found to have been given in any of the isolators during the last several years.[1]

There are premises designated for visits in all of the isolators; however, most of them need renovation, are poorly heated and ventilated.

The equipment capacity varied in different isolators. Virtually all the pre-trial isolators had separate premises for authorized monthly visits of children under the age of five.

In five of the MoI/MoJ isolators and in the isolator of the MNS the parcel delivery points were comprised of a room with a window for handing over the parcel; in one of the case, the window was right on the street, which means that the relatives of the detainees have to wait in the street for the paperwork to be completed and the parcel to be inspected regardless

troduce radical changes to this situation, however, one may still fear that when the Law becomes effective, a number of difficulties will arise in connection with the persisting practice, the legal unawareness of detainees and their relatives, as well as the physical capacity of initial detention cells (“KPZ”) and pre-trial isolators: the physical capacity of visit rooms, correspondence censorship, etc.

Methods of Research

The research included three parts:

- comparative analysis of national and international legislation;
- interviews with the administration of all pre-trial isolators in the Republic of Armenia, gathering information on conditions and possibilities of visits, correspondence and parcels (on the basis of this, observation cards were filled in for each of the pre-trial isolators); and
- sociological survey.

Surveys were carried out in Yerevan, Abovyan, Vanadzor, Goris and Gyumri. All seven of the pre-trial isolators of Armenia were visited.

The interviews were mostly carried out in Yerevan, but because of the fact that pre-trial isolator #1 also has detainees from nearby regions of the country some of the respondents were relatives of detainees from the regions. The interviewees included released detainees and those transferred to a prison from various isolators during the preceding month. One should note that the findings of the survey among released detainees (free at the time of the survey) and their relatives might have shown a more positive picture than things actually stand, because a large

Investigators working in investigative departments of the Ministry of Interior and the General Prosecutor's Office, as well as judges of first instance and appellate courts were interviewed.

The monitoring was carried out from August to November of 2001.

One of the tools to monitor the right of persons deprived of liberty and under investigation to visits and correspondence was interviewing such persons, as well as those directly involved in this area. To make the findings of the survey complete one should take a multilateral approach to the problem: this was the principle applied in identifying the target groups. The survey included people who had been under investigation not long ago (those in prison and those who had just finished serving the sentence), relatives of detainees, defense attorneys, investigators and judges. Therefore, five questionnaires were developed so that they contain different information based on the specifics of targeting and the purpose lying behind the surveying of each group of respondents. For example, the questionnaire for detainees, former detainees and their relatives concerned specific cases of requests for authorization of visits and correspondence with a positive or negative response, the motivation of refusal, the conditions in which the visits took place, the conditions of delivering parcels, etc.

Investigators, defense attorneys and judges were interviewed mostly in connection with their practice and experience. Based

The following individuals were interviewed:

32 detainees and former detainees;

51 relatives of detainees (the outcomes of the survey among detainees and former detainees and that among relatives of detainees were combined, because they all had completely identical questionnaires. Altogether, 83 individuals were interviewed this way.);

22 investigators;

25 defense attorneys; and

20 judges.

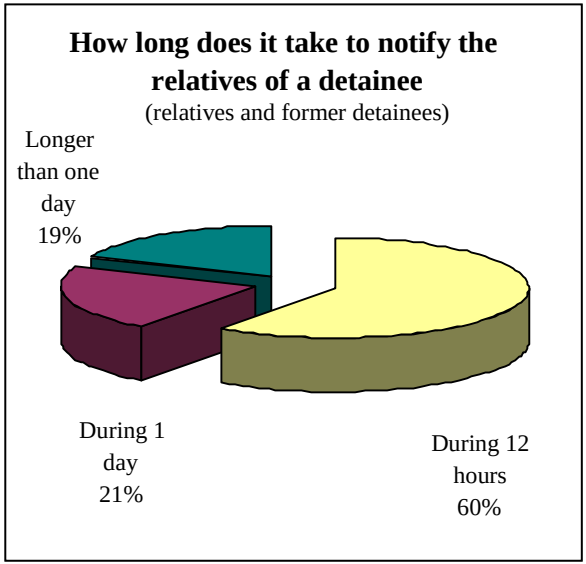
Initial detention

According to Article 63 of the Criminal Procedure Code (CPC) of the Republic of Armenia close relatives of a suspect shall immediately be informed of apprehension, but no later than within 12 hours after the moment of deprivation of liberty. According to the law this shall be done by the body conducting the criminal proceedings, but not the detainee him/herself, since the latter personally does not have the possibility to call a relevant individual and informing him/her of the apprehension. Therefore, this provision of the law does not give a detainee the right to call personally, and the possibility of permitting or forbidding the telephone call ends up being the exclusive prerogative of the investigative officer or investigator.

The survey has further revealed that after apprehension, close relatives of the detainees are most often notified (according to 64% of the respondent detainees and their families, and according to all 22 of the investigators). Meanwhile, notification of defense attorneys was very rare. This answer was not given by any of the former detainees, and only one relative, one defense attorney and one investigator mentioned so.

In about 1/3 of the cases, apprehension takes place in front of the relatives. In the rest of the cases, notification is given in the following period: during the 12-hour period stipulated by law (60% of relatives of detainees and of detainees who were appre-

In most of the cases, notification on apprehension is given by the investigator or the investigative departments of the Ministry of Interior (42% of relatives and detainees, 56% of attorneys), whereas 13% of relatives and detainees, 20% of attorneys and 9% of investigators state that the detainee him/herself has the possibility to call.



The moment of initial detention is a very important stage. When a person faces only law enforcement officers with no support of a defense attorney or other support, this, unfortunately, creates some room for abuse, unlawful actions (including unlaw-

tainee is well-known and whereby any appropriate help may be delivered as a response to deprivation of liberty. The meaning of these safeguards cannot be overestimated because of the fact that some cases of detention take place without the right of correspondence or communication." One should note that only one of the interviewed investigators mentioned the possibility of obtaining permission to have visits immediately after apprehension and indictment, i.e., within the first 96 hours. The absence of this practice deprives detainees of the possibility to inform close relatives about the actual reasons of arrest and to consult with them on the choice of an attorney and other matters of defense. Not to forget that 41% of the interviewed investigators mentioned that detainees most frequently request permissions for visits during the first 96 hours following apprehension.

The draft Law on Treatment Detainees and Arrested Persons enshrines the possibility of a visit during the pre-trial detention stage (paragraph 9 of article 13, which reads "communicate with the outside world, including correspondence, visits, access to a telephone, literature and mass media, receive parcels and packages", and Article 15 stipulates that "a detained person may be authorized to have at least one visit lasting up to one hour"). However, "for the sake of the investigation, visits of close relatives, mass media representatives and other individuals with detainees and arrested persons may be forbidden by a decision of the body bringing criminal proceedings."

The investigators in the survey stated that the main factors in

(23%) are against. The vast majority (18 investigators/82%) believe that the investigator should be authorized to permit a visit.

Location of Isolators

Persons detained by a court decision as a preventive measure are held in pre-trial isolators of the Republic of Armenia. There are seven pre-trial isolators, of which six used to be under the authority of the Ministry of Interior (and have been transferred to the Ministry of Justice) and the pre-trial isolator of the Ministry of National Security.

4 of the isolators are located away from the road and no transport reaches them. Pre-trial isolator #1 is 500m away from the nearest transport station, isolator #5 is 1,000m, the one in Gyumri is about 400m, and to reach the Abovyan Pre-trial Isolator for Women, one would need to take the public transport to the nearest inter-city bus stop, and follow on walking about 500m.

Parcels

Parcel Delivery Point

In general, almost all the parcel delivery points are virtually the same. Practically in all of the pre-trial isolators, the parcel delivery point is inside the building. It is only in the pre-trial isolator in Abovyan (women and juveniles) where parcels are received through a window on the street (there is a table and a bench right in the street, where one can do the parcel delivery paperwork).

Samples of paperwork (indicating how to fill it in) and a list of permitted products and objects exist in almost all of the parcel delivery points, but only one of the isolators had a detailed description of the procedure of parcel delivery: sugar, tea and coffee must be emptied into polyethylene bags, candies must be delivered without the wrappings, etc. Absolutely no instructions existed in the parcel delivery points of the Abovyan and Ministry of National Security (MNS) pre-trial isolators where there are no instructions on the walls informing relatives on what and how may be delivered. In the MNS the list of permitted objects is by the officer receiving parcels; the list is accessible for familiarization. Almost everywhere, except for pre-trial isolator #1, if a visitor wishes to use the restroom, he/she will have to get into the administrative premises. None of the parcel delivery premises have got designated winter heating.

summertime due to the absence of refrigerators and the possibility of an epidemic.

Announcements hang awkward: in order to read a list, one has to walk to the window end-to-end, where there is usually a queue, notwithstanding that the room is quite big, and the lists could be hung in a different corner. The building looks rather worn-out and needs renovation. A sample form does not exist; some relatives pointed at an ordinary piece of paper listing the objects they are delivering, while some others brought with them a list made in advance.

The parcel delivery point in pre-trial isolator #1 is the only one with a restroom.

Most of the time, parcel delivery is done once a week (57 relatives of detainees / 69%). The majority of relatives (36 relatives / 71%) mentioned that they have to wait longer than half an hour to deliver their parcels.

Currently, parcels weighing up to 40 kg per month may be delivered either in whole or in parts. This detail is not clear in all of the delivery points; it is usually explained orally. The announcements in almost all of the isolators forbid the delivery of medicaments. Nevertheless, the administration clarified that relatives may bring medicine prescribed by the physician of the pre-trial isolators under appropriate control.

Some changes are expected in the parcel delivery procedure.

transfer to the detainee or arrested person such substances and objects, which contain some threat to the life of people or can hinder the implementation of detention or arrest objectives.”

Visits

Waiting for Visits

In general, waiting for visits (paperwork and bringing the detainee) takes up to one hour (according to all 23 of those allowed to have visits, while the administration claims that paperwork takes up to 20 minutes). As a rule, visitors to all the pre-trial isolators obtain visit permission at the same window at which parcels are delivered, and they also wait for the visit in the same room. In the pre-trial isolator of the MNS, the parcel delivery window is in the same room as the entry access point. Currently, visitors do not have to wait long, because visits to the pre-trial isolator are very rare.

In pre-trial isolator #1 the authorization for a visit is delivered to the relevant officer through the window; afterwards, the visitor waits in the street. In Abovyan, there is no visitor room at all. Visitors have to wait in the street.

Premises for Visits

All of the observed isolators had premises for visits. Three of them (pre-trial isolator #1, Goris and Gyumri) have dividing walls made of organic glass; Goris is the only place in which one of the two meeting cabins have a telephone, while the other iso-

During our visit to the pre-trial isolator (on October 27) there was a visitor: the detainee was standing in the cabin. When we asked why he does not sit, he said that it is too cold to sit.

None of the isolators had a description of the visit procedures on the walls: in the corridor of pre-trial isolator #1, a list of objects forbidden for parcel delivery could be found on the wall (mobile telephones, cutting and stabbing objects, etc). In the isolator of the MNS, the list of forbidden objects was in the visit room (communication devices, photo cameras, etc).

As a rule, the officers of the pre-trial isolator cannot be present during the visit and no chairs have been designated for them. The pre-trial isolator of the MNS had a "seat" for convoy. If we take into account that a visit may last an average of two hours, the absence of a special seat may both cause inconvenience and trigger shortening of the time allocated for the visit. When we asked whether the visitors learn the rules of the visit, different officers responded in different ways. Besides, when we asked how long a visit usually takes, the answers ranged from one to four hours. Notwithstanding that the question was not asked, some respondents voluntarily said that their visits had lasted about 20 minutes. As for the causes, they mentioned things like "the convoy said it is enough," or "the stools are very awkward, we had to stand while talking."

As for the **pre-trial isolator #1 in Yerevan**, its premises for

place; however, they have a place that allows them to come into direct contact (a bench and a stool in the corner of the room).

As for the **isolator #2 in Gyumri**, it is possible to hold three visits at the same time; there is a dividing wall between the detainees and the visitors, but detainees are not separated from other detainees and visitors are not separated from one another either. This type of separation cannot be achieved because the room is narrow and has only one entry door. As for the lights there is only one bulb on the side of the detainees. The restroom is nearby, but one may go there only with convoy.

As for the **isolator #3 in Vanadzor**, the premises designated for visits are two cage-boxes located at the end of a corridor, end-to-end with opposite walls that stand about 0.8m apart; one of the cage-boxes has a stool for the detainee and the other one has a bench that can take three people. The cage-boxes themselves are very narrow.

The **pre-trial isolator in Goris** is in the same building as the court; there are two cabins for visits located in a rather large room. One of the cabins is equipped with a telephone. It seems like the second one is used very rarely, because of the lack of visits.

The **pre-trial isolator #5 in Yerevan** is designated for detention of former administrative workers. The premises for visits are comprised of an ordinary room with electric lights and no air access. There is a bench, a table and two stools. During a visit

means that these rooms cannot be heated even by means of electric heaters. The windows are painted and do not open, but it can be heard from the street what is spoken inside the building.

The **Yerevan pre-trial isolator of the MNS** does not have a specially equipped place for visits: instead, it is an ordinary room with a couch (on which a detainee and a visitor would sit next to each other), two chairs and a sink. An officer working in the isolator sits in the same room at the table.

The results of examination of the rooms designated for visits are confirmed by the responses of detainees and their relatives: in 16 cases (44%) visits took place in ordinary rooms; in 12 cases (33%) visits were held in rooms with a dividing glass, and in 3 cases (8%) there was both a dividing glass and a telephone. In all of the cases, a superintendent had been present. Only two of the visits had taken place at the same time with other visits in the same room.

Visits by Children under the Age of Five

Detainees in pre-trial isolators may have monthly visits by children under the age of five. The permission to hold such visits was given by a decree of the Ministry of Interior.

There is direct contact during these visits. Generally, there are no rooms specifically designated for meeting children. The only places that had such rooms were pre-trial isolator #1 and the

Pre-trial isolator #5 in Abovyan and that of the MNS do not have special rooms for visits by children. Therefore, such visits take place in the same place with ordinary visits.

Feasibility of Visits

Authorization of visits in the Republic of Armenia is governed by the "**Regulation on Pre-trial Detention in the Armenian Soviet Socialist Republic**" dated 1969 (hereinafter the Regulation), which specifies that visits and correspondence may be permitted by the body conducting the criminal proceedings, but does not regulate specific cases:

Article 12: "Procedure of Authorizing Visits to Persons Taken into Custody

"The administration of a pre-trial detention center may authorize persons taken into custody to have their relatives or other individuals visit them only with the permission of a person or a body handling the proceedings of a given case. The duration of a visit shall be between one and two hours. The person or the body handling the proceedings of a given case may permit a visit, as a rule, no more than once a month."

According to the comments to the "**Regulation on Pre-trial Detention in the Armenian Soviet Socialist Republic**" (provided by the Department for the Implementation of Criminal Sentences), "visits of relatives or other persons to those persons

According to the information provided by the Department for the Implementation of Criminal Sentences, the following situation existed at the time of the monitoring:

Pre-trial isolator #1 in Yerevan: about 700 people are detained there; 7 visits were permitted in August, 5 of which were during the trial and 2 were at the stage of pre-trial investigation. 9 visits were permitted in September, all in court.

Pre-trial isolator #2 in Gyumri: about 30 people are detained there; no visits during the last three months except for one visit by a five-year old child.

Pre-trial isolator #3 in Vanadzor: about 110 people are detained there; the administration said that 3-4 visits take place each year.

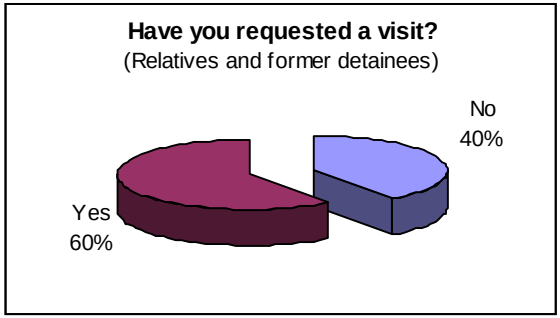
Pre-trial isolator in Goris: about 30 people whose verdict has not come into force yet; there are about 1-2 visits per month, including visits to the convicted.

Pre-trial isolator #5 in Yerevan (for staff of administrative agencies): about 40 detainees; 5 visits were permitted in the period from January 1, 2001 to September 24, 2001.

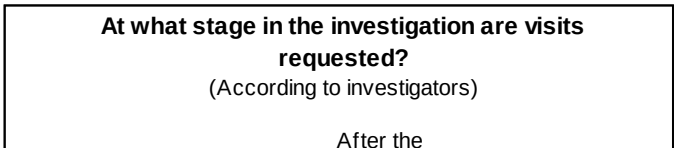
Pre-trial isolator in Abovyan (women and juveniles): about 60 detainees; 3 visits were permitted over the course of three months (2 during the investigation and 1 during the trial).

Yerevan pre-trial isolator of the MNS: 23 detainees; 12 vis-

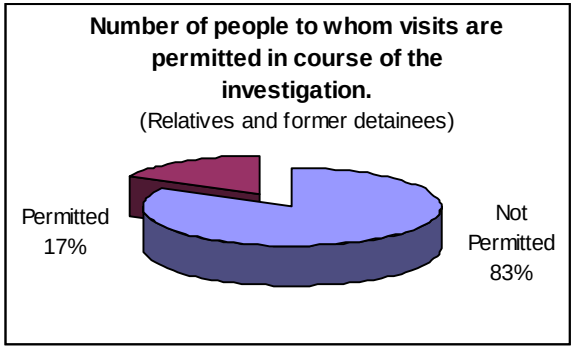
The survey of detainees and their relatives showed that 40% never tried to do anything to get an authorization for a



visit, claiming that the reason was that "there is a law forbidding visits before the verdict is proclaimed" (36%) and that "there is no hope of getting a permission (30%). When asked where they found it out, they quoted either the experience of other detainees or the administration of the investigation isolators or the investigator. The same factors are quoted by the defense attorneys when explaining why no one requests a visit permission, with the only difference being that they consider the "lack of hope of getting a permission" the strongest reason (48%), and legal unawareness the second (20%).

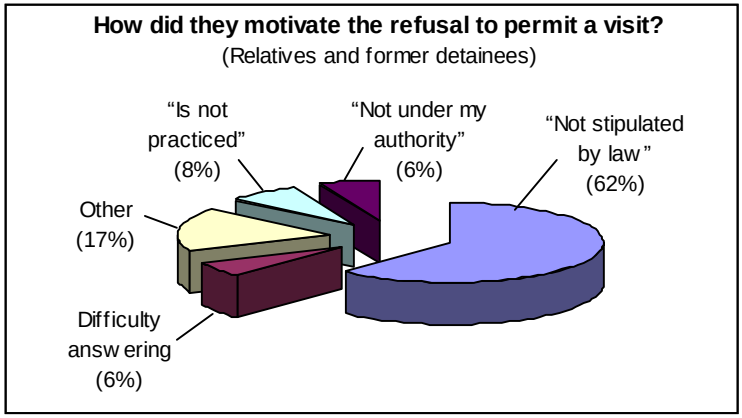


outcome of the survey of detainees showing that only 99 requests were made (50 persons), of which 36 succeded (of which 22 were satisfied after the verdict was proclaimed). In other words, only 14 out of 83 persons got visits before the verdict.



Investigators mention that visits are most often permitted after a suspect is charged (8 investigators/36%) and after the indictment is endorsed (5 investigators/23%). Interestingly enough, 4 investigators responded that visits are not permitted at all even though the questionnaires did not even offer this choice to a respondent.

As a rule, visit permissions had been requested directly from investigators (defense attorneys' services were used only 9 times, which is 9% of the total number of cases). An investigator's negative response had been protested in exceptionally rare

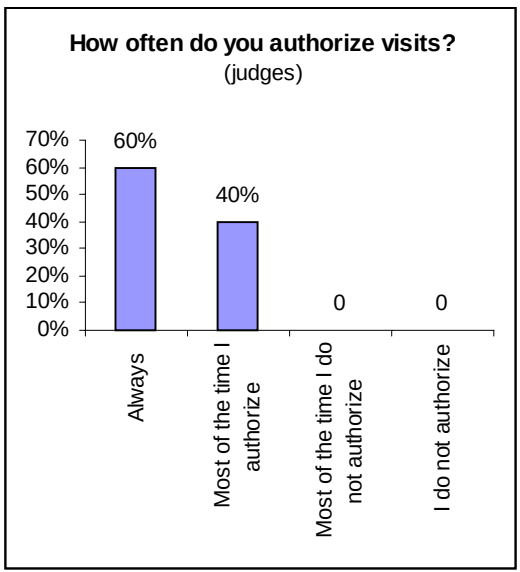


It is interesting that according to defense attorneys investigators that deny permission refer to the confidentiality of the investigation (76% of the attorneys) and claim "it is not a matter of their authority" (20% of attorneys), which could mean that the investigators use the legal unawareness of ordinary citizens.

One should note that (according to the detainee survey) in 27% of the cases in which authorization was requested some conditions were required in return for granting the authorization. According to the defense attorney getting an authorization mostly depends on whether the accused cooperates with the investigation (9 attorneys / 36%) and the severity of the crime (8 attorneys / 32%).

It takes an average of a week from the moment a visit is

When the judges were inquired about authorizing visits to detained defendants, 13 of the judges (65%) mentioned that such cases are rare; 12 judges (60%) responded that they always authorized such visits and 8 judges (40%) mentioned that they rather authorize such visits than not. All the judges mentioned that it takes up to three days to resolve the issue. The cases in which the judges refuse are motivated by the interests of the trial. The majority of judges (14 judges or 70%) do not connect authorizing a visit to any conditions (severity of the crime, etc).



The right to visits is regulated by Article 15 of the draft entitled “Visits of Defense Attorneys, Close Relatives and Other Persons”, whereby:

“Visits of close relatives, mass media representatives and other individuals with detainees and arrested persons are authorized by a decision of the administration of the center for detainees or arrested persons.

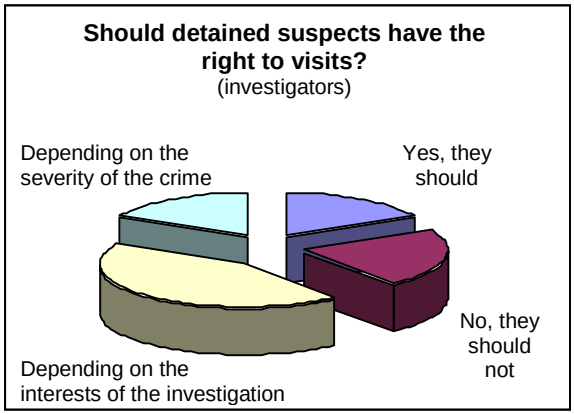
For the sake of the investigation, visits of close relatives, mass media representatives and other individuals to detainees and arrested persons may be forbidden by a decision of the body conducting the criminal proceedings by giving written notice thereof to the administration of the center for detainees or arrested persons.

Visits of close relatives, mass media representatives and other individuals with detainees and arrested persons are permitted under the supervision of officers of the administration of the center for detainees or arrested persons.

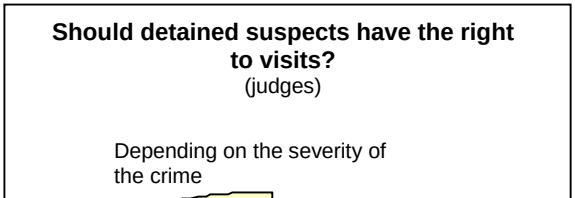
If the aforementioned individuals give or attempt to give the detainees and arrested persons forbidden objects, substances and information hindering the fair investigation of the criminal case or facilitating a new crime, it may lead to an early termination of the visit.

An arrested person may be authorized to have a minimum of one visit by close relatives, mass media representatives and other

lieve that the authority to authorize visits should be vested in the investigator.



As for the interviewed defense attorneys 21 of them (84%) responded that a detained defendant must have the right to visits; 17 attorneys (68%) believe that the investigators should be entitled to authorize visits, 3 attorneys (12%) believe that it should be the administration of the pre-trial isolator and only 5 attorneys (20%) believe that visits should be permitted in general.



judges (10%) were against this. The vast majority of judges believe that the judge should be the official entitled to authorize visits to detained defendants (17 judges or 85%).

Correspondence

The right to correspondence is regulated by Article 13 of the "Regulation on Pre-trial Detention in the Armenian Soviet Socialist Republic": "Persons in custody may have correspondence with their relatives or other citizens only with the permission of the person or body handling the proceedings of their case.

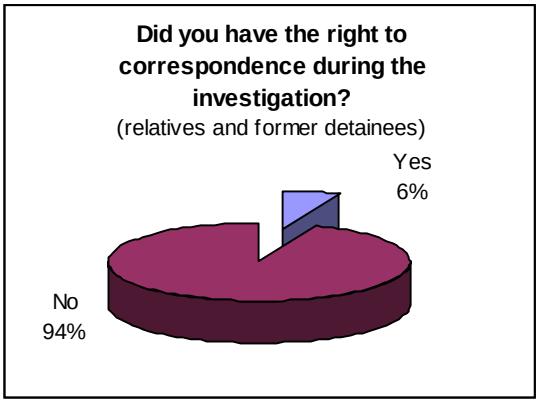
Complaints, statements and letters of persons in custody shall be checked by the administration of pre-trial detention centers. Complaints, statements and letters addressed to the prosecutor shall not be checked and shall be delivered to the prosecutor within one day after receipt."

According to the comments on this Regulation, "All the letters of persons in custody are subject to censorship by the administration of pre-trial detention centers. Letters written by codes, digital or any other signs, as well as letters containing sketches of an area, a map or a design may not be sent."

According to the comments of almost all the staff members of the administration of pre-trial isolators, personal correspondence has not been permitted to any detainees in isolators during the last several years. Therefore, there is no social service for correspondence and censorship.

According to the respondents only 13 people (16%) were permitted to have correspondence, of which 7 were at the stage of

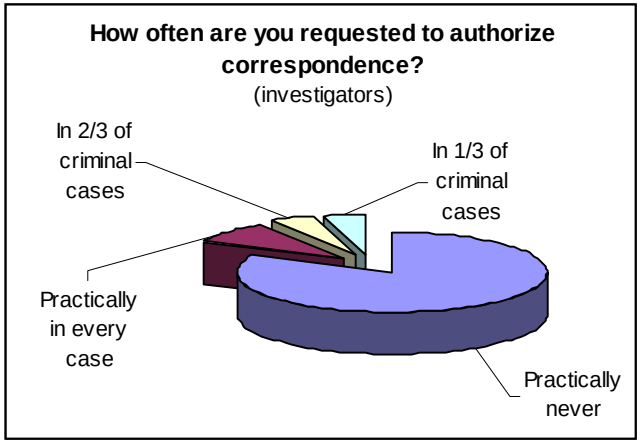
rights, but cases like this are far from being typical. Possibly, the issue was solved unofficially, i.e. without the permission of the investigator, the judge, etc.



During the survey a case was found where a defense attorney told how he heard from the mother of a detainee that her parcel was not accepted by the administration who had claimed that "her son had been punished and deprived of the right to receive a parcel for a certain period of time, because he was found writing a letter to his mother hoping to deliver it to her either through a defense attorney or a fellow inmate."

There had also been cases when correspondence had been permitted, but the letters never reached the addressees. 16 defense attorneys (64%) also mentioned that correspondence permission is requested very rarely, and even if it is requested, it is

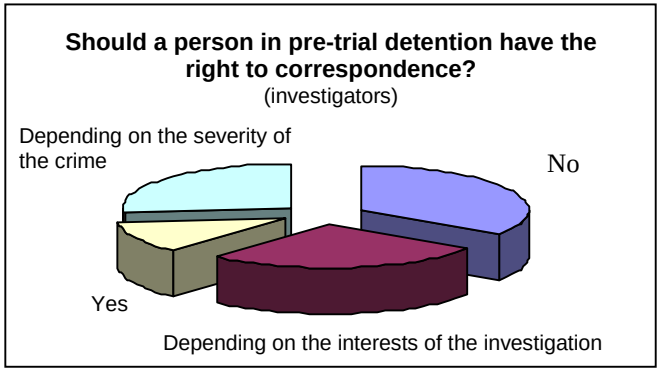
As for detainees and their relatives requesting permission for correspondence, the investigators responded that there are very few such cases (18 investigators/82%) and that permission is practically not given (14 investigators/64%). The refusal of investigators, which is mostly motivated by the interests of the investigation (10 investigators/45%) and the lack of legislative regulation (4 investigators/18%), is almost never appealed.



In the course of the trial, correspondence is requested very rarely (19 judges/95%), and only one judge asserts that such requests are satisfied.

Outlook

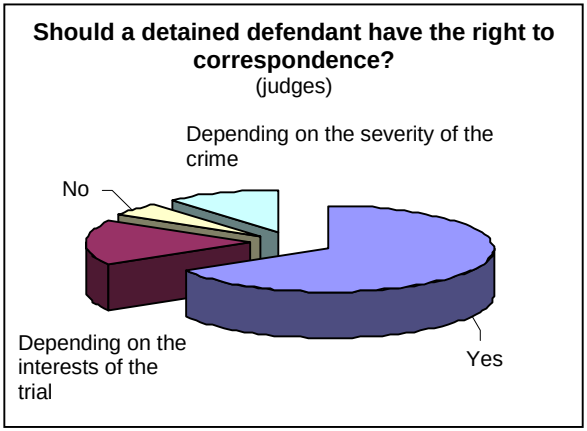
(41%) disagreed with that. 7 investigators (32%) connect such permission to the severity of the crime and another 7 investigators (32%) link it to the interests of the investigation. The majority believes that the investigator should have the authority to authorize correspondence (16 investigators / 73%). As for implementing censorship, 15 investigators (68%) supported the idea; 8 of them (36%) believe this should be determined by the investigator.



The majority of interviewed judges (12 judges/60%) believe that a detained defendant must have the right to private correspondence and one thought the opposite. According to the judges, permission of correspondence must be given by the judge (8 judges/40%), the administration of the pre-trial isolator (5 judges/25%) and 4 judges (20%) stated that correspondence should be permitted in general. As for censorship on correspon-

of the centers for detainees or arrested persons shall create appropriate conditions for the detained and the arrested to maintain contact with the families and outside world. For this purpose, visit rooms, possible communication access points and access to mass media shall be created. The detained and the arrested may have correspondence at their cost without any limits concerning the number of letters and telegrams.

The correspondence shall be channeled through the administration of the center for detainees or arrested persons and, without reviewing the content of such correspondence, shall be checked externally to preclude the transfer of forbidden objects or substances. Censorship of letters may be implemented only upon a court decision. Censorship shall be implemented by the



telephone conversations, mail, telegraph and other communication, which may be restricted only by court.”

Conclusions and Recommendations

The monitoring revealed that the practice of detainees personally notifying families or friends or of authorizing visits both after apprehension and during the investigation and the trial is not regulated by law and is almost non-existent. Personal correspondence is not permitted. This situation was inherited from Soviet legislation and the practice of the time. Moreover, international standards and recommendations are obviously violated.

The right to keep in contact with persons outside the detention centers has been given a precise formulation in several international standards. Both the Document of the Moscow Meeting and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment require that any person arrested or detained should be able "without undue delay" to notify appropriate persons of his or her choice of his or her arrest, detention, imprisonment and whereabouts.

The most practical way of fulfilling the notification requirement will often be to allow the detained person to make a telephone call to the person to be notified. Security and criminal investigation considerations, as well as other more practical ones, might justify the communication being made through the detaining authorities but this is likely to be acceptable in only very exceptional cases (see the OSCE/ODIHR Report on Pre-Trial Detention in the OSCE Area). To regulate this matter in

frequently than once a week, while the food cooked in the pre-trial isolator does not satisfy them. The administration informed that cooking in cells is forbidden even though some of the detainees mentioned that they actually have stoves in the cells and cook themselves.

Notwithstanding that relatives usually do not have to wait long to deliver parcels, it still requires special paperwork, which is rather inconvenient without normal chairs. Moreover, a parcel delivery room could realistically be designed in the pre-trial isolator for women and juveniles and, even though renovation needs funds, it will not be a too costly exercise, because the parcel delivery window is attached to one of the visit rooms, and its external wall is just where the relatives have to wait in the open air. According to the head of the prison, the building will be renovated in the near future; the aforementioned issue could be considered and solved in a rational manner so not only to upgrade the visit room, but also to designate some space in the open air for people to wait for their turn to deliver a parcel or to meet their relatives in detention. In the worst case, the table and chair in the street could be at least covered with a shed.

It is necessary to prepare and post in all parcel delivery points unified instructions:

1. on products and objects permitted and forbidden for delivery;
2. on the procedure of receiving parcels;

Perhaps, it would be reasonable to issue the paperwork required for visits in advance for the relatives to be able to complete it in advance.

Notwithstanding the standard that is defined in the instructions, as the administration claims, the premises for visits vary in the way they look. In a number of cases, direct contact is permitted during visits, and in a number of others, it is not. It is possible that as long as the current law is in force the non-regulation of the problem will cause investigators to refuse authorizing visits. It is necessary to develop unified standards on how to furnish the premises for visits in all of the pre-trial isolators. The problem is particularly acute in Vanadzor, where the pre-trial isolator does not have a useful room for visits. However, considering that this pre-trial isolator has recently obtained a new building and is preparing to renovate it one would need to designate both a room for visits and one for accepting parcels.

When furnishing rooms for visits, it would be necessary to take into account the capacity of such rooms. For example, the pre-trial isolator in Vanadzor has an average of 100-120 detainees. The draft Law on Treatment of Prisoners and Arrested Persons specifies two visits a month each lasting up to three hours. During a working day about 3-4 visits can be held in a cabin for visits (if everyone decides to use the whole three hours). Ap-

Naturally, solving issues such as renovation of rooms for parcel delivery and visits, creation of convenient rooms sufficient for visits, and installation of necessary equipment would be linked to financial costs.

Either the laws or sub-legislation must clearly regulate the procedure of visits. It is possible that a dividing wall or a telephone not be necessary in absolutely all cases, but rather, one might be permitted a direct contact. However, in certain cases, in which there is a danger of disclosing confidentiality of the investigation, a visit may take place in a cabin with a wiretapped telephone, which could be cut off if and when necessary.

The survey among relatives and detainees revealed that the main reason why very few of them request permission to have visits is the legal unawareness and, therefore, the unawareness concerning the possibility of going to an investigator or a judge and requesting permission to have a visit. Those in imprisonment were convinced that “it is not permitted”, while some of those in liberty, who had defense attorneys during the investigation and the trial, knew about their rights and tried to exercise them. Some of the relatives proved with their responses that one should not even think about any visits or correspondence before the verdict comes into force, because “the law says so.” The findings affirm that all possible measures should be implemented as a priority, for people to know their rights and to pro-

conducting the criminal investigation, because the investigators may find it appropriate to forbid visits in each and every case they arrest anyone, and besides, this could become a tool of pressuring the suspect. When the investigator applies unlawful measures of influence and would not benefit from anyone learning about it, visits will be forbidden with a different statement, claiming "for the sake of keeping the investigation confidential." We would find it more appropriate if forbidding visits were the prerogative of courts, similar to arrest warrants. Both at this stage (with the existing laws), and in case if the Law is substantially adopted and this right is given to the courts, it would be necessary to carry out awareness work to inform the staff of law-enforcement authorities, investigators, and judges of the right of detained and arrested persons to family life and communication with the outside world (European Convention on the Protection of Human Rights and Fundamental Freedoms, European Prison Rules, Standard Minimum Rules of UN, etc). Violation of this right without substantial reason brings about a violation of human rights, conflicting the requirements of UN and the European Court of Human Rights in Strasbourg.

During the monitoring, we had some discussions with the officers in charge of the visits. Their responses on the procedure of visits and the rights and responsibilities of detainees and their relatives, the length of visits and the possibility of interrupting a visit varied. It became clear that administrative staff needs

such as the availability (currently the lack) of censors, a censorship procedure, etc. After the law is adopted, the situation should improve drastically. It is also necessary to inform people of their rights and think of the possibility of providing one or two envelopes, stamps, paper, and pens to the detainees free of charge once in a while.

In the light of the new Law to be adopted, the focus should be on public supervision of the places of deprivation of liberty. The Law enshrines the existence of this institution, but it is not clear how the selection, registration, and practical activities of NGOs take place. Virtually all the international standards advocate the principle of openness. "The main principle for securing the rights of detained persons is the principle of openness: prisons and other places of imprisonment shall be open for external and independent examination, and imprisoned persons shall have access to the outside world" ("How to make standards work?"). Public supervision requires a streamlining of documentation in the pre-trial isolators, namely the maintenance of separate journals on visits (which should be accessible to observers, as opposed to just making entries in personal cards), access to decrees forbidding visits, and in case of detainees' or their relatives' complaints concerning unjustified censorship or forbiddance of a letter, access to such letters forbidden by censorship, etc.

Summary

The monitoring revealed that there is virtually no practice of authorizing visits and personal correspondence to detainees held in pre-trial isolators of the Republic of Armenia until such time when their verdict comes into legal force. Notwithstanding that according to the current legislation, both visits and correspondence may be permitted by the body conducting the criminal investigation, the law is actually enforced only in rare cases. In general, visits and correspondence with the pre-trial isolators are permitted only after the verdict is proclaimed, before the detainees are transferred to a prison.

According to the Criminal Procedure Code, the close relatives of the detained person should be informed about his or her detention or whereabouts immediately after bringing to law-enforcement bodies. This legislative measure must be changed, because according to the international recommendations, it is desirable for the detainee to be able to make a telephone call himself or herself to the person of his or her choice, but not necessarily the close relatives. The surveys have shown that in some cases it takes several days before the relatives find out about apprehension

There are critical problems in regards to allowing visits. Implementation of this right is severely impeded. In this ase

should be strictly isolated from society, and that visits or correspondence should not even be considered. This relates to investigators as well as to detainees and their relatives who generally are not aware of their rights to visit and correspondence. Therefore, notwithstanding the new draft legislation, the Law can be realistically effective only if the investigators do not automatically adopt decisions on forbidding visits and use their right to forbid visits in order to pressure the detainees, and only if the detainees and their relatives know their rights and strive to have them implemented: requesting visits, writing letters, protesting unjustified prohibition and decisions on censorship. This requires active public awareness work by defense attorneys and non-governmental organizations among detainees and their relatives, as well as regular seminars and training courses for the staff of law-enforcement agencies, investigators, and judges.

Thus, the existing situation can be changed in the following way:

- Amendments to legislation;
- Changing the existing practices;
- Reconstructing the parcel delivery points and visit rooms;
- Strengthening the competence of law-enforcement staff; and
- Increasing legal awareness among the public.

Note

During the period of the monitoring, the pre-trial isolators were transferred from the Ministry of Interior to the Ministry of Justice, which was then followed by a change in their names. The text of the report uses the old names. The new names are as follows:

1. **Pre-trial isolator #1 in Yerevan:** criminal penitentiary institution "Nubarashen" of the Ministry of Justice of the Republic of Armenia.
2. **Pre-trial isolator #2 in Gyumri:** criminal penitentiary institution "Gyumri" of the Ministry of Justice of the Republic of Armenia.
3. **Pre-trial isolator #3 in Vanadzor:** criminal penitentiary institution "Vanadzor" of the Ministry of Justice of the Republic of Armenia.
4. **Pre-trial isolator of Goris:** criminal penitentiary institution "Goris" of the Ministry of Justice of the Republic of Armenia.
5. **Pre-trial isolator #5** (**in Yerevan**, for staff of administrative agencies): criminal penitentiary institution "Vardashen" of the Ministry of Justice of the Republic of Armenia.
6. **Pre-trial isolator in Abovyan** (women and juveniles) -

white. The existing words “to individuals convicted to the death penalty” are now followed by a normal list of permitted objects. All the instructions on the wall above the window have been moved to the side wall and can now be read notwithstanding the queue of people. The tables and the benches have been moved to a position more convenient for visitors. It is now convenient either to fill in the paperwork on the contents of the parcel or to wait for a response.

Legislation

Constitution of the Republic of Armenia

Article 20

Everyone is entitled to defend his or her private and family life from unlawful interference and defend his or her honor and reputation from attack.

The gathering, maintenance, use and dissemination of illegally obtained information about a person's private and family life are prohibited.

Everyone has the right to confidentiality in his or her correspondence, telephone conversations, mail, telegraph and other communications, which may only be restricted by court order.

Article 41

A person accused of a crime shall be presumed innocent until proven guilty in a manner prescribed by law, and by a court sentence properly entered into force.

The defendant does not have the burden to prove his or her innocence. Accusations not proven beyond a doubt shall be resolved in favor of the defendant

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health and morals, or for the protection of the rights and freedoms of others.

The Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment approved under resolution 43/173 of the General Assembly of UN on December 9, 1988

"Definitions:

"a detainee" is any person deprived of personal liberty not as a result of conviction for a violation of law;

"arrest" is the act of apprehending someone on suspicion that he or she was involved in a crime or on decision of any public body.

Principle 16:

"Promptly after arrest and after each transfer from one detention or imprisonment center to another, a detained or imprisoned person shall be entitled to notify or to require the competent authority to notify members of his family or other

tions and restrictions as specified by law or lawful regulations."

Minimum standard rules of the treatment of prisoners, adopted in 1955 by the First UN Congress on Prevention of Crime and Dealings with Violators; Geneva 1955. Approved by resolutions of the Economic and Social Council of UN 663C (XXIV) dated July 31, 1957, and 2076 (LXII) dated May 13, 1977:

84.1. Persons arrested or imprisoned by reason of a criminal charge against them, who are detained in police custody or in prison custody (jail) but have not yet been tried and sentenced, will be referred to as "untried prisoners" hereinafter in this rules.

92. An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to such restrictions and supervision as are necessary in the interests of the administration of Justice and of security and good order of the institution.

European Prison Rules (reviewed text of the Minimum European Standards for the Treatment of Prisoners): the concept "detainees under investigation or trial" includes persons held in custody because of being charged with committing an offence,

pervision as are necessary in the interests of the administration of justice and of the security and good order of the institution.

National Legislation

"Regulation on Pre-trial Detention in the Armenian Soviet Socialist Republic", 1969

Article 12: "Procedure of Authorizing Visits to Persons Taken into Custody

"The administration of places of pre-trial detention may authorize persons taken into custody to have their relatives or other individuals visit them only with the permission of the person or the body handling the case. The visit duration shall be between one and two hours. The person or the body handling the case may permit a visit, as a rule, no more than once a month."

Article 13: "Persons in custody may have correspondence with their relatives or other citizens only with the permission of the person or body handling the case.

Complaints, statements and letters of persons in custody shall be checked by the administration of pre-trial detention centers. Complaints, statements and letters addressed to the prosecutor shall not be checked and shall be delivered to the prosecutor within one day after receipt."

Draft Law on Treatment of Detainees and Arrested Persons

Article 13: "Rights of Detainees and the Arrested"

para. 9: "The right to communicate with the outside world, including but not limited to the right to correspondence, visits, access to a telephone, literature, and mass media, as well as the right to receive parcels and packages."

Article 15: "Meetings with Defense Attorneys, Relatives, or Other Persons

Meetings of detainees and the arrested persons with close relatives, representatives of the mass media, and other persons are granted by a decision of the administration of the center for detainees or the center for arrested persons.

Due to the interests of the investigation, meetings of detainees and the arrested persons with close relatives, representatives of the mass media, and other persons may be forbidden by a decision of the body conducting the criminal investigation, by written notice thereof to the administration of the detention or arrest center. Meetings of detainees and the arrested with close relatives, representatives of the mass media, and other persons are granted under the supervision of the officers of the places for holding detainees and the arrested. Meetings will be terminated before their end if these persons make an attempt to or do give to the suspects or the accused prohibited objects, materials or in-

Article 17: Communication of Detainees and the Arrested with Families and the Outside World

The administration of the center for detainees and arrested persons shall provide the appropriate conditions to enable the detainees and the arrested to maintain communication with their family and the outside world. For this purpose, meeting rooms shall be organized within the center for detainees and arrested persons, possible communication means shall be equipped, and conditions for access to mass media information shall be created. Detainees and arrested persons shall be allowed to have correspondence at their own expense, without any limitation on the number of letters and telegrams.

Correspondence shall be channeled through the administration of the center for detainees and arrested persons and, without reviewing the contents, shall be subject to external examination to preclude the transfer of forbidden objects or substances. Censorship may be performed only by a decision of court. Censorship is performed by the administration of the center for detainees and arrested persons or, if necessary, the body conducting the criminal investigation.

If detainees and the arrested receive letters after they have been transferred to a new place, these letters shall be forwarded to the new place of their location."

Article 22:

which contain some threat to the life of people or can hinder the implementation of detention or arrest objectives.”

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