

Civil Society Institute NGO

Confinement Conditions of Persons Held in
Deprivation of Liberty in the
Garrison Disciplinary Isolators and the
Disciplinary Battalion under the
Ministry of Defense of the
Republic of Armenia

REPORT

Yerevan 2010

The Report was prepared and published with the support of the OSCE Office in Yerevan.

The views, findings, interpretations and conclusions expressed herein are those of the authors and do not necessarily reflect the views of the OSCE.

ISBN: 978-92-9235-859-4

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General Overview

The assessment of the garrison disciplinary isolators and the disciplinary battalion under the Ministry of Defense of the Republic of Armenia was carried out by the “Civil Society Institute” non-governmental organization with the support of the the Organization for Security and Co-operation in Europe Office in Yerevan.

The initiative was taken on 15 October 2009. A pilot project carried out in the spring of 2009 revealed certain issues related to living conditions, the legislation, and its application. Questionnaires were prepared for a more profound and in-depth analysis of these issues. The questionnaires contained, in particular, questions on the detention conditions of persons held in disciplinary isolators, the legal and practical grounds of sanctions, and the sanctioning procedures and practices. The survey involved visits to the disciplinary battalions operating in Armenia. To facilitate the visits, an official letter was sent to the Minister of Defense of Armenia, based on which permission to enter into the isolators was granted. The observers were secured unhindered access to the isolators visited. However, as agreed beforehand, the Military Police was given advance notice of the date and time of the visits. In some cases (isolators in the towns of Gyumri and Ijevan), there were no detainees in the isolators at the time of the visit. The last detainee had been transferred out of the Gyumri Isolator several hours before the group’s visit. In Ijevan, the observers were told that quarantine had been imposed due to an influenza outbreak, even though the Vanadzor Isolator, which was within the same garrison, was functioning as usual.

Conditions for effective work were created all along the survey. To this end, the willingness of the Ministry of Defense to collaborate actively is highly commendable. Such practices lay the groundwork for expanding the collaboration between non-governmental organizations and the Ministry of Defense, especially as Article 47 of the Republic of Armenia Law on Holding Arrested and Detained Persons and Article 21 of the Penitentiary Code contemplate the creation of a standing mechanism of public oversight over institutions under the jurisdiction of the Ministry of Defense of the Republic of Armenia.

Chapter 1. Deployment and General Overview of the Disciplinary Isolators

Garrison disciplinary isolators and a disciplinary battalion currently operate under the Ministry of Defense of the Republic of Armenia.

The disciplinary battalions are for persons held in isolation as a disciplinary penalty based on the Disciplinary Statute of the Armed Forces of the Republic of Armenia, persons arrested or detained in the cases and procedure stipulated by the Criminal Procedure Code, and persons convicted to a detention sentence. Under Appendix 14 (“Appendix on the Disciplinary Isolator,” hereinafter “Appendix 14”¹) to the Republic of Armenia Law on Approving the By-Laws of the Garrison Services and Patrol Services of the Armed Forces of the Republic of Armenia, the following servicemen shall be held in the garrison disciplinary isolator:

- Persons held in isolation as a disciplinary penalty: for the term specified in the isolation notice; persons arrested by decision of the investigation or inquest body: for no more than 72 hours (until the court sets the restraint measure);
- Persons detained: for no more than 72 hours (until the relevant documents are prepared and the person is transferred to a penitentiary institution); in exceptional cases, when the transfer of servicemen during the aforementioned time period is impossible due to a long distance or the inadequacy of transport or road communication, they may be held in a garrison disciplinary isolator for up to 15 days;
- Defendants: until the end of the court proceedings, but no more than 72 hours;
- Persons convicted by court to serve their sentence in a disciplinary battalion: until the judgment becomes final and up to the transfer to the disciplinary battalion for a period of no more than 72 hours; in exceptional cases, when the transfer of servicemen during the aforementioned time period is impossible

¹ See Annex 1 for the full text of this document.

due to a long distance to the location of the disciplinary battalion or the inadequacy of transport or road communication, they may be held in a garrison disciplinary isolator for up to 15 days;

- Persons convicted to imprisonment: for no more than 72 hours after receiving a copy of the judgment;
- Persons convicted by judgment to serve the sentence in the form of detention: for the term specified in the judgment; and
- Servicemen apprehended for being intoxicated or not having documents: for no more than 24 hours, until a sanctioning decision is taken in respect of them.

The disciplinary battalion is for holding convicted persons whose sentence is “confinement in a disciplinary battalion” as per Article 49 of the Republic of Armenia Criminal Code.

These matters are mainly regulated by Appendix 14 and the penitentiary legislation.

In the frameworks of the project, the survey team visited isolators and the battalion. The primary objective of the visits was to learn about the conditions in which persons were held in those institutions. During the survey, the team visited the following disciplinary isolators:

1. Disciplinary Isolator of the Goris Garrison (town of Kapan);
2. Disciplinary Isolator of the Yeghegnadzor Garrison (town of Vayk);
3. Disciplinary Isolator of the Yerevan Garrison (City of Yerevan);
4. Disciplinary Isolator of the Armavir Garrison (town of Etchmiadzin);
5. Disciplinary Isolator of the Sevan Garrison (town of Martuni);
6. Ijevan Disciplinary Isolator of the Lori Garrison (town of Ijevan);
7. Vanadzor Disciplinary Isolator of the Lori Garrison (town of Vanadzor);
8. Gyumri Disciplinary Isolator of the Shirak Garrison (town of Gyumri);

9. Chambarak Section of the Sevan Garrison (town of Chambarak);
10. Ararat Section of the Yeghegnadzor Garrison (town of Vedi);
11. Disciplinary Isolator of Army Detachment 888-63, which is located in Yerevan (in the territory of the administrative building of the Military Police of the Ministry of Defense of the Republic of Armenia).

Table 1.	
Isolator	Capacity
Yerevan	36
Detachment 888-63	30
Vanadzor	25
Gyumri	24
Kapan	22
Etchmiadzin	21
Vayk	17
Martuni	15
Ijevan	13
Chambarak	11
Vedi	9

On the whole, there were significant differences in conditions between the isolators. The survey revealed that renovation works have been underway in the isolators in recent years: 7 of the 11 isolators visited had been renovated. The renovated isolators were compliant with the general standards, and consistent living conditions were secured. The sanitary situation in the renovated isolators was adequate. Whereas, the sanitary situation in the isolators that had still not been renovated was quite dire: in particular, the isolators in Vedi, Gyumri, and Etchmiadzin stood out by the fact that, even if renovated, they cannot have adequate facilities for the inmates. Therefore, pending the construction of new buildings, efforts should be exerted to preclude the detention of persons in these isolators, because their conditions are inhuman and degrading, and holding persons there would result in treatment contrary to Article 3 of the European Convention on Human Rights and Fundamental Freedoms (hereinafter, “the European Convention on Human Rights”).

The isolators differed from one another also in terms of size and capacity: the largest isolator is the disciplinary isolator of the Yerevan garrison (capacity to hold 36 inmates), while the smallest is the one in Vedi (9 inmates).

The isolators have cells of different sizes and capacities, from solitary cells to common cells holding over 10 servicemen.² The cells are segregated into officer and soldier cells. In some isolators, the soldier cells are further segregated into sergeant and private servicemen cells. The doors of officer cells are not locked.

In the renovated isolators, the cells designated for private servicemen are, as a rule, furnished with small chairs and a table, as well as folding beds that are locked during the daytime. In most of the isolators, the small chairs are placed so that the folding beds lean on them when opened. Therefore, the small chairs are far from the table, which precludes sitting close to the table.

Though the legislation requires constant running water supply in the cells, which means that water tanks with taps must be present in the cells,³ only some of the cells had such tanks, but they were of low quality. Some isolators had installed just plastic jugs.

All the cells of the disciplinary isolators visited had concrete floors. Most of the windows could be opened from the outside. On the inside of the windows, there were dense bars that precluded opening of the windows from inside. The cells had two types of artificial lighting: evening and nighttime. The evening lighting lamps were on the ceiling; their number varied depending on the cell size. The nighttime artificial lighting was on the wall above the door. The switches of both types of the lights were outside of the cells. Electrical heaters were installed in the cells. Their switches were outside the cells, in the corridor. In the renovated isolators, there was generally adequate natural light, as opposed to the non-renovated isolators. The non-renovated isolators did not have separate evening and nighttime lighting, which meant that, in some isolators, the cells were overly light during the nighttime. In the VEDI Disciplinary Isolator, only a night lamp was installed, because of which the cells were constantly in darkness.

In some isolators, the toilet and the washroom are separate, but in some others, they are in the same room. The toilets are Asian squat toilets in separate chambers.

² Under Appendix 14, the isolators must have solitary cells and common cells, a canteen, office rooms for the isolator staff, a health post, an exercise yard, an investigative room, a warehouse, a washroom, and indoor or outdoor toilets.

³ Paragraph 40 of Appendix 14, referring only to common cells.

Two to three showers are present in each isolator. The water is heated in electrical tanks.

Of the isolators visited by the team, the Etchmiadzin and Vedi isolators did not have showering possibilities. The administration of the Etchmiadzin isolator said that, if necessary, the servicemen are taken to a nearby detachment for showering purposes. The washroom in the Vedi isolator was being renovated, which deprived the servicemen of access to a shower. The toilets in both of the aforementioned isolators were in dire straits.

None of the visited isolators was connected to the natural gas network. All of the isolators were heated with electricity, which was considerably more costly.

Each isolator had one or two exercise yards, which have a concrete fence (at least 2 meters high) and a surface area of 36 or 126 square meters. The disciplinary isolator of the Ararat garrison did not have a special exercise yard.

Some of the exercise yards were fenced with barbwire. There were neither benches nor any precipitation cover in the exercise yards. None of the exercise yards had facilities for physical exercise.

The food was mostly cooked in a nearby detachment and taken to the isolator in special containers. However, in some isolators, the food was cooked at site. Although the inmates in those isolators more highly appreciated the food quality, none of the isolators actually had the conditions necessary for cooking (in Vedi, the food was cooked in unsanitary conditions). In the absence of special supplies and conditions, the food preparation and delivery in the isolators did not correspond to the sanitation and hygiene rules and regulations prescribed by the legislation of the Republic of Armenia.

The food rations of the inmates were the same as those of the conscription servicemen (see Annex 2 for more detailed information on the food rations). The canteens were furnished with tables and chairs, as well as basins for washing the dishes. Some isolators also had electrical stoves for heating up the food. The canteens employed the isolated servicemen on duty each day. The food intake is administered in such a way as to preclude inmates of different categories coming into contact with each other, i.e. they are taken to the canteen in groups of inmates by cells.

In each isolator, there is an investigative room that is designated for the performance of investigative actions. As a rule, the investigative room is furnished with a table and chairs. The investigative room is also used as a room for visits for the arrested and the detained.

The health post employs a paramedic that performs the medical checkup of newly-admitted servicemen and provides first aid. In case of more serious health issues, inmates are transferred to other health care institutions. It transpired that no consistent practice existed for these cases: the governors of some institutions said that they “would not possibly allow a soldier’s condition to get worse,” and “would immediately move him to a hospital.” In others, they said that the permission of the detachment doctor was needed for an inmate to be transferred to the hospital. The health posts received the relevant medication from the Yerevan Department (detachment 888-63). There was a couch, a table, a chair, and a box for medication in the health post.

The warehouse stored the military jackets and the sanitary supplies of the servicemen, as well as objects that are prohibited inside the isolator.

Chapter 2. Legal Status and Conditions of Confinement of Persons Subjected to Disciplinary Penalties on the Basis of the Disciplinary Statute of the Armed Forces of the Republic of Armenia in Disciplinary Isolators

2.1. Practice and Legitimacy of Applying Isolation as a Disciplinary Penalty

Article 6 of the Republic of Armenia Armed Forces Internal Service Code safeguards the protection of the rights and interests of servicemen in the Republic of Armenia as follows: “Servicemen shall enjoy the protection of the state. Their life, health, honor, and dignity shall be protected by law. Calling names, uttering threats, exerting violence, or otherwise encroaching upon the life, health, and property of a serviceman, other actions obstructing the serviceman’s performance of his duties, and other encroachments upon his rights shall give rise to liability prescribed by the legislation of the Republic of Armenia.”

Article 9 of the Code provides that no one may limit the servicemen’s rights and duties stipulated by the Republic of Armenia Constitution and legislation.

Territorial administration bodies, military administration bodies, commanders (governors), and law-enforcement bodies shall be responsible for safeguarding and securing the rights of servicemen.⁴

Servicemen also bear duties under the Republic of Armenia legislation; sanctions are prescribed for the failure to perform such duties. Article 25 of the Code, in particular, provides that servicemen violating the military discipline shall bear disciplinary liability in accordance with the procedure stipulated by the Disciplinary Statute of the Armed Forces of the Republic of Armenia.

⁴ Article 10 of the Code.

The Disciplinary Statute of the Armed Forces of the Republic of Armenia approved under the Republic of Armenia Government Decree 247 dated 12 August 1996 (hereinafter, “the Disciplinary Statute”) provides that the serviceman shall personally bear disciplinary liability for breach of military discipline or the public order.

In case of breach of military discipline or the public order by a serviceman, the commander (governor) may confine himself to reminding the serviceman his responsibilities and military duties or, if necessary, order a disciplinary penalty, as well.⁵

The following penalties may be applied in relation to servicemen: reprimand, severe reprimand, deprivation of the regular leave, ordering of additional work duty days, lowering of military rank, deprivation of military rank, isolation and holding in a disciplinary isolator for a maximum period of 10 days (a maximum period of 10 days for conscription soldiers and sergeants, a maximum period of 7 days for non-commissioned officers, and a maximum period of 5 days for officers).

The commanders of regiments and brigades may order up to 10 days’ isolation of conscription soldiers and sergeants in a disciplinary isolator. The commanders of army corps and army groups may order up to 7 days’ isolation of non-commissioned officers. The army commander may order up to 5 days’ isolation of officers.⁶

Servicemen isolated in disciplinary penalty proceedings that breach the internal regulations of the isolator or are neglectful in the performance of work shall, based on a written report by the isolator governor, be subjected to an additional penalty by decision of the commandant within the limits of his authority. In these cases, the total duration of isolation of rank and file conscription servicemen

⁵ Paragraph 51 of the Disciplinary Statute of the Armed Forces of the Republic of Armenia.

⁶ Paragraphs 64, 72, and 79 of the Disciplinary Statute of the Armed Forces of the Republic of Armenia.

shall not exceed 20 days, and that of contract servicemen, including non-commissioned officers, shall not exceed 10 days.⁷

Of the penalties listed above, confinement in a disciplinary isolator is the most severe one. It is an extreme sanction that is applied in case of grave disciplinary offences or when other measures taken by the commander (governor) render no effect. The penalty of confinement in a disciplinary isolator may not be applied in relation to servicemen that did not take the military oath.

When applying the penalties, the commander must take into account that the penalty, as a measure of enforcing the serviceman's discipline and educating him, must correspond to the gravity of the offence and the level of guilt to be determined by the commander (governor) in an investigation. The Statute requires the person applying the penalty to take into account, when determining the level of guilt and the disciplinary penalty, the nature of the offence, the circumstances in which it was committed, its consequences, the past conduct of the offender, the duration of military service, and the degree of knowledge of the procedure of performing military service.⁸

Appendix 5 to the Disciplinary Statute stipulates the list of grave disciplinary offences of military servicemen,⁹ the commission of which justifies the application of disciplinary isolation as the disciplinary penalty.

⁷ Paragraph 4 of Appendix 14 to the Republic of Armenia Law on Approving the By-Laws of the Garrison Services and Patrol Services of the Armed Forces of the Republic of Armenia.

⁸ Paragraph 92 of the Disciplinary Statute of the Armed Forces of the Republic of Armenia.

⁹ Voluntary absence, the failure to return to service from leave, a service trip, or a health care institution, late reporting for duty or voluntary abandonment, breach of the patrol, internal service, and combat duty performance rules, the performance of service duties in a state of intoxication due to alcohol, narcotics, or toxic substances, or breach of security requirements resulting in loss of work ability, grave breach of the statutory rules on the relationship between servicemen, wastage or loss of army property, or offences committed in public places outside of service.

Several or combined disciplinary penalties may not be applied for one offence. Penalizing the whole staff of the unit instead of the actual offender shall be prohibited. The disciplinary penalty of confinement in a disciplinary isolator without setting the isolation duration shall be prohibited.¹⁰

The Statute also stipulates safeguards of the legitimate enforcement of disciplinary penalties: under the Statute, a commander (governor) exceeding his disciplinary authority shall be held liable.

The international human rights standards also require the application of disciplinary penalties to be lawful, legitimate, and based on an investigation carried out in line with the safeguards prescribed for the investigation of criminal cases, including the provision of key rights such as sufficient time and possibilities for effective defense, an opportunity to present arguments and counter-arguments, respect for the presumption of innocence, and the right to a reasoned decision.

In its case law, the European Court of Human Rights clearly noted that disciplinary penalties are considered “criminal” for purposes of Paragraph 1 of Article 6 of the European Convention on Human Rights.¹¹ The term “criminal” used in Article 6 has an autonomous meaning and depends on the classification in the domestic legislation. The nature of the offence and the severity of the sanction are of particular importance in the determination of the “criminal charges.”¹²

The application of the penalties must have legal grounds and be prescribed by law. The requirement “prescribed by law” applies also to the substance of the law. The provision of the law must be formulated with sufficient precision and clarity so as to allow a person to foresee, to a degree that is reasonable in the

¹⁰ Paragraph 96 of the Disciplinary Statute.

¹¹ *Engel and Others v the Netherlands*, 8 June 1976, Series A no. 22, *Öztürk v Germany*, judgment of 21 February 1984, Series A no. 73, p. 18, § 50; *Demicoli v Malta*, judgment of 27 August 1991, Series A no. 210, pp. 15-17, §§ 31-34).

¹² *Galstyan v Armenia*, no. 26986/03, 15 November 2007.

circumstances, the consequences which a given action may entail. This provision also requires the provision to be consistently interpreted and applied.¹³

The observation revealed a number of structural issues related to the practice of applying disciplinary penalties in the form of isolation. The issues were related to the following:

1. The permissibility of applying isolation as a disciplinary penalty in the context of the servicemen's right to freedom of the person;
2. Lawfulness of application of disciplinary penalties without [proper] investigation;
3. Widespread application of isolation as a disciplinary penalty regardless of the gravity of the offence and the degree of guilt;
4. The setting of the maximum time period when applying isolation as a disciplinary penalty; and
5. Application of different penalties for the same offence.

Article 5 of the European Convention on Human Rights provides:

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
 - a. the lawful detention of a person after conviction by a competent court;
 - b. the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfillment of any obligation prescribed by law;

¹³ *Sunday Times v the United Kingdom* (no. 1), judgment of 26 April 1979, Series A no. 30, p. 31, para. 49; *Rekvényi v Hungary* [GC], no. 25390/94, para. 34, ECHR 1999 III; *Rotaru v Romania* [GC], no. 28341/95, para. 55, ECHR 2000 V; *Maestri v Italy* [GC], no. 39748/98, para. 30, ECHR 2004-I), *Baklanov v Russia*, no. 68443/01, para. 46, 9 June 2005.

- c. the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority of reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
- d. the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
- e. the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts, or vagrants;
- f. the lawful arrest or detention of a person to prevent his effecting an unauthorized entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

According to the case law of the European Court of Human Rights, a person isolated in disciplinary proceedings shall be considered deprived of liberty, if he is held in a locked cell and does not perform the serviceman's duties that he would perform in an army detachment.¹⁴ The European Convention does not permit the application of prison sentences or penalties ("conviction") for an offence without a court decision. Paragraph 1 of Article 5 of the Convention permits "detention of a person after conviction by a competent court." It does not distinguish the legal character of the offence of which a person is found guilty. It applies to any "conviction" depriving a person of his or her liberty and pronounced by a competent court, regardless of its classification in the domestic legal system of the country.¹⁵

With this assessment, the European Court found that deprivation of liberty as "conviction" for any type of offence

¹⁴ *Engel and Others v the Netherlands*, 8 June 1976, Series A no. 22.

¹⁵ *Gurepka v Ukraine*, no. 61406/00, para. 39, 6 September 2005.

(disciplinary, criminal, or administrative) may be applied only by decision of court.

Furthermore, Paragraph 3 of Article 5 of the European Convention provides: “Everyone arrested or detained ... shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time...”

The mechanism of deprivation of liberty must be compatible with the international standards and the domestic legislation on human rights. Although Article 5 of the Convention does not apply to the actions stipulated by the Disciplinary Statute of the Armed Forces of the Republic of Armenia by virtue of the derogation made by the Republic of Armenia in relation to Article 5, military servicemen, nonetheless, enjoy extensive legal protection under Article 6 of the European Convention and the Constitution of the Republic of Armenia. Under Article 16 of the Constitution, in particular, a person may be deprived of liberty or have his liberty limited only in the procedure stipulated by law and in the following cases:

- Conviction of the person by a competent court for committing a crime;
- The person’s non-compliance with the lawful order of a court;
- The purpose of securing the performance of certain duties provided by law;
- When there is reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
- The detention of a minor for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
- The prevention of the spreading of infectious diseases;
- The prevention of other danger to society; and
- The prevention of the person’s effecting an unauthorized entry

into the country or of a person against whom action is being taken with a view to deportation or extradition.

Clearly, Article 16 of the Constitution incorporates and reiterates Article 5(1) of the European Convention without any exceptions or permissible grounds for deprivation of liberty as a result of applying a disciplinary penalty. Therefore, depriving a person of his liberty in cases not stipulated by the Republic of Armenia Constitution is deemed unlawful, and such practice directly contradicts the Constitution.¹⁶

It is worth noting that the Republic of Armenia made a derogation related to Article 5 of the European Convention (“right to liberty”). Such derogation, however, does not preclude or minimize the effect of Article 6 (right to a fair trial) of the Convention. Consequently, the safeguards prescribed by Article 6 of the Convention fully apply to the proceedings of enforcing the sanction of confinement in a disciplinary isolator.

The European Court noted that Article 5(1) of the Convention has autonomous application and that its provisions do not apply in conjunction with those of Article 6 of the Convention.¹⁷

Article 6 of the Convention provides:

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

<...>

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

¹⁶ Article 6 of the Republic of Armenia Constitution stipulates that the Constitution has supreme legal force and that its rules shall apply directly. Laws must be in conformity with the Constitution. Other legal acts must be in conformity with the Constitution and the laws. Normative legal acts shall be adopted on the basis of the Constitution and the laws with the purpose of securing their application.

¹⁷ *Engel and Others v the Netherlands*, 8 June 1976, para. 68, Series A no. 22.

3. Everyone charged with a criminal offence has the following minimum rights:
 - a. to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
 - b. to have adequate time and the facilities for the preparation of his defense;
 - c. to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
 - d. to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - e. to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

In its case law, the European Court has construed the notion “criminal charges.” The Court considers that, in order to determine whether or not an offence is “criminal” within the meaning of the Convention, it must be first of all ascertained:

- Whether or not the text defining the offence in issue belongs, according to the legal system of the respondent State, to criminal law; and
- The nature of the offence and the degree of severity of the penalty must be examined.¹⁸

In all cases, the definition in the domestic legal system is not decisive in the meaning of Article 6, and the nature of the offence in issue is a more important factor.¹⁹

¹⁸ *Öztürk v Germany*, 21 February 1984, para. 50, Series A no. 73, *Demicoli v. Malta*, 27 August 1991, paras. 31-34, Series A no. 210.

¹⁹ *Campbell and Fell v the United Kingdom*, 28 June 1984, para. 71, Series A no. 80, *Weber v. Switzerland*, 22 May 1990, para. 32, Series A no. 177.

As to the severity of the penalty, the Court considers that the application of deprivation of liberty as a penalty belongs to the criminal domain, provided that it is not essentially detrimental by its nature, duration, or execution method.²⁰

In the case of *Galstyan v. Armenia*, where the Court found a violation of the Convention by the Republic of Armenia, the Court assessed the possibility of deprivation of liberty for a term of up to seven days and found that deprivation of liberty for a term of three days belonged to the criminal domain.

In the light of these criteria set forth by the Court, it can be concluded that acts for the commission of which servicemen face a disciplinary penalty in the form of isolation for up to 10 days are considered “criminal” in the meaning of the Convention, and all the safeguards prescribed by Article 6 of the Convention must be respected during their investigation, including:

- The right to a hearing by an independent and impartial tribunal established by law;
- The right to a fair and public hearing within a reasonable time;
- The right to be presumed innocent;
- The right to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
- The right to have adequate time and the facilities for the preparation of his defense;
- The right to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require; and
- The right to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him.

²⁰ *Ezeh and Connors v the United Kingdom* [GC], nos. 39665/98 and 40086/98, § 69-130, ECHR 2003-X.

The procedure stipulated by the Disciplinary Statute for applying disciplinary penalties in the form of isolation is not compatible with the international standards. This level of normative legal regulation does not secure the effective implementation of the binding international standards and constitutional safeguards in the process of applying penalties in the form of isolation in Armenia. In other words, a person may be deprived of his liberty for a period of up to 10 days (in certain cases, even 20 days) without a court decision and in the absence of the grounds stipulated by the Constitution.

The application of criminal law towards military personnel is the same as towards civilians. Consequently, although the primary aim of justice in military cases is to maintain discipline in the army, the administration of justice in military cases must secure the protection of human rights and strike a reasonable balance between the measures securing the performance of disciplinary duties and the imperative of respecting the proper legal procedures of fair trial.

Confinement in a disciplinary isolator as a disciplinary penalty is applied in other member states of the Council of Europe, as well (France, Portugal, Moldova, the Czech Republic, Russia, Spain, Turkey, Slovakia, and others), some of which made the same derogation as Armenia in relation to Article 5 of the Convention. Nevertheless, states that did not make a derogation from Article 6 of the Convention created courts trying cases of military offences. To this end, there are three conditional models of courts: military courts, civil courts, and mixed courts. The first model is considered problematic, and the European Court of Human rights has expressed concern over the independence of such courts, noting that, in the meaning of the Convention, they do not have the necessary attributes of a court (for example, in Turkey).

Hence, the following procedure of enforcing penalties in the form of isolation may be considered as a possible solution of the problem that exists in Armenia: the commander may decide to apply isolation for a term of up to 3 days, while any isolation for a term beyond 3 days may be applied only by court decision. Such regulation, however, would only be possible if the Constitutional Court decided to broadly interpret Article 16 of the Constitution so that the notion of

“conviction for a crime” is understood also as “conviction” for other offences, just as it is construed under the European Convention.

A special procedure has to be developed to prescribe the peculiarities of investigating the application of isolation as a disciplinary penalty and the safeguards to be respected in such investigations.

The observation showed that even the existing procedure of applying penalties, which is considered quite flawed, is currently not respected in practice. It transpired that practically no investigation is carried out in cases when the Disciplinary Statute requires the commander (governor) to carry one out to determine whether or not an offence has been committed, when, where, in what circumstances, how, who exactly is guilty in their actions or inaction, the degree of each person’s guilt (if there are several offenders), the consequences of the offence, the circumstances aggravating or mitigating the offender’s liability, and the causes and conditions in which the offence was committed.²¹

During the interviews, representatives of the Military Police and the isolated servicemen confirmed the virtual absence of any investigations, noting that it would be quite difficult, time-consuming, and resource-intensive to carry out an investigation for each case.

Nevertheless, the legislation requires conducting an investigation. The failure to conduct an investigation violates the presumption of innocence and may lead to the application of groundless penalties by commanders, wrong decisions, and a greater likelihood of applying excessive penalties or even penalizing innocent servicemen. Addressing this issue is crucial, because fair, legitimate, and effective sanctioning policies are the best way to secure military discipline.

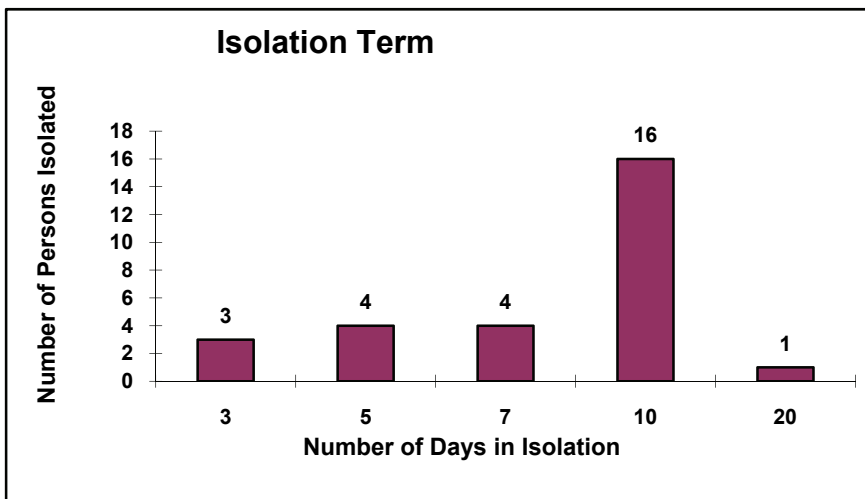
The review also revealed that, despite the absence of legal grounds, the application of the disciplinary penalty of isolation is extremely widespread in Armenia. When applying the disciplinary penalty of isolation, commanders often fail to take into consideration the gravity of the offence and the degree of guilt.

²¹ Paragraph 91 of the Disciplinary Statute.

The review showed, for example, that a commander of one detachment had ordered over 300 penalties of isolation in the disciplinary isolator during the course of a year. It means that the disciplinary penalty of isolation prevails over other penalties that do not involve deprivation of liberty, even though isolation is considered an extreme measure that must be applied for grave disciplinary offences or when the other measures taken by the commander are ineffective.²²

During the interviews, the Military Police personnel noted that the commanders applying the penalty of isolation frequently choose the maximum sentence, i.e. 10 days of isolation. This comment was supported in the interviews with servicemen confined in disciplinary isolators. About three quarters of the privates deprived of liberty had the penalty of disciplinary detention for a term of 10 days. The maximum sentence was imposed without any regard for the specific circumstances of the case and essential principles such as the individualization of punishment and the proportionality of the sentence.

Table 2.



²² Paragraph 106 of the Disciplinary Statute.

In practice, the decisions to apply disciplinary penalties, including decisions on confinement in the isolator, are made orally without either investigation or indication of the grounds of the decision.

In all cases, the commander (governor) making the decision must make a reasoned decision specifying the facts of the offence, the legal grounds for the application of the penalty, justification of the choice of the penalty, and, in case the penalty of confinement in an isolator is ordered, also reasoning as to why the application of other penalties is deemed ineffective.

Oral decisions are impermissible when applying penalties in the form of isolation. A written decision must be made when applying the penalty of confinement in an isolator, because not only it is a prerequisite of the effective exercise of the right to appeal, but also the written decision serves as a basis for issuing an isolation letter, which, in terms of the lawfulness of the restriction of the right to liberty, must comply with the requirements of the legislation, as the isolation may not be enforced unless the necessary information is included therein. To this end, one copy of the decision, containing among other things information on the appeal procedure and terms must be provided to the sentenced person so as to ensure the effective exercise of the right to appeal.

Under Paragraph 93 of the Disciplinary Statute, a serviceman that considers himself innocent has the right to appeal the disciplinary penalty within 10 days of receiving it. This provision, too, limits the practical exercise of the serviceman's right to appeal, because in case of being sentenced to the penalty of confinement in an isolator, the serviceman is taken to the isolator where he is isolated from the outside world, has no right to either correspondence or legal aid, and consequently, is effectively deprived of the right to file an appeal. The situation is particularly grave for servicemen isolated for a period of 10 days, because the designated period for the appeal expires by the time the serviceman is released, and appeals filed thereafter will not be admitted on the ground of being overdue. On the other hand, in cases when the

isolation term is less than 10 days, review after the sentence has actually been served becomes illusory.

It transpired from the interviews that there are no appeals: none of the isolated servicemen had lodged appeals. Moreover, none of the Military Police personnel was able to recall even one case of a soldier appealing a penalty applied in relation to him. There are two main reasons for this situation. Firstly, the appeal mechanism is practically ineffective as it cannot provide redress for a violation or its consequences, whilst servicemen generally rightly fear that appeals may lead to retaliation in the military detachment later on. Secondly, servicemen are not sufficiently aware of the right to appeal and the ways in which the right may be exercised, and without legal assistance, they would frequently be unable to file such appeals on their own.

Moreover, Paragraph 116 of the Disciplinary Statute provides that an appeal shall be referred to the immediate supervisor of the person whose actions are the subject of the appeal, or, if the appellant does not know who is guilty of the breach of his rights, then the appeal shall be referred to the superior command.

This appeal procedure does not have the nature of formal proceedings and contradicts the international instruments ratified by the Republic of Armenia and the domestic legislation. Article 9(4) of the International Covenant on Civil and Political Rights, in particular, provides that anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful. According to the UN Human Rights Committee,²³ a person isolated in disciplinary proceedings is considered to be deprived of liberty and enjoys all the safeguards that are applicable to arrested or detained persons,²⁴ including, in particular, the right to trial of his case in court. In the aforementioned case, too, the applicant had been subjected to a disciplinary penalty during his military service,

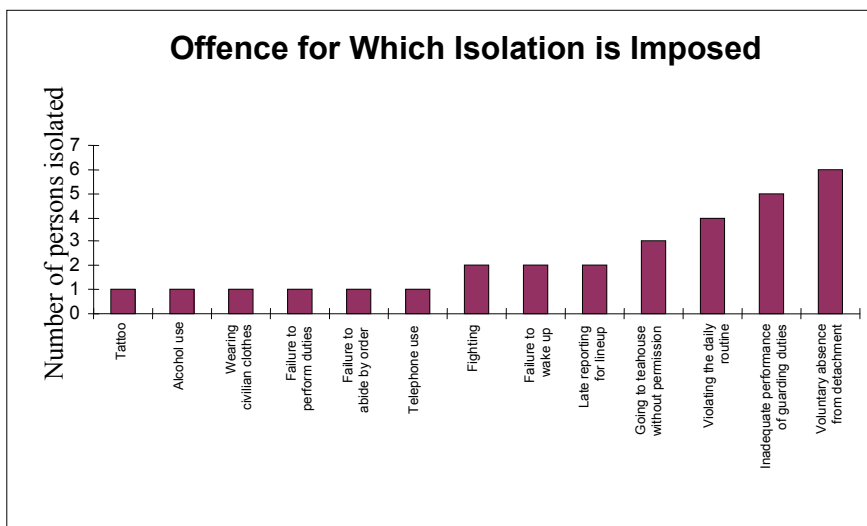
²³ Communication No. 265/1987 concerning the application by Antti Vuolanne.

²⁴ UN Human Rights Committee, Communication No. 265/1987.

and 10 days' isolation had been ordered in respect of him. During this period, he was held in a cell measuring 2 x 3 meters, and was unable to exercise his right to correspondence. The Committee found that the person on whom the disciplinary penalty of isolation was imposed served his penalty as convicts. While serving the penalty, the serviceman underwent a degree of social isolation normally associated with arrest and detention. The Committee further noted that whenever a decision depriving a person of his liberty was taken by an administrative body or authority, there was no doubt that article 9, paragraph 4, obliged the State party concerned to make available to the person detained the right of recourse to a court of law. The Committee noted that appeal to a superior commander was insufficient, because he did not and could not possibly have the independence typical of courts.

The observation revealed that different commanders often imposed very different penalties for the same offence. The most frequent offences are voluntary absence from the detachment, violation of the daily routine, and flaws while on duty. There was no consistency in the penalties imposed for these offences, including the duration of isolation (in cases when isolation was imposed).

Table 3.



On the other hand, the expressions “breach of internal service rules” and “breach of relationship between servicemen” in the list of grave offences are too wide and need to become more concrete. They currently do not correspond to the principle of legal certainty. It is necessary to clearly define the list of offences for which disciplinary isolation may be imposed so as to avoid abusive imposition of disciplinary penalties. In its case law, the European Court has noted that the expression “prescribed by law” implies predictability of the legal provision. A legal rule cannot be deemed law unless it is worded with sufficient clarity. Everyone must be able to regulate his conduct and to foresee the consequences which a given action may entail.²⁵

To address the aforementioned issues, it is recommended:

1. Not to impose the disciplinary penalty of isolation until such time when the legislation prescribes legal grounds and mechanisms not contravening Article 16 of the Constitution;
2. To bring the practice of imposition of disciplinary penalties into line with the requirements of Article 6 of the European Convention, i.e. to impose isolation only by court order;
3. To develop a special procedure that will define the procedure of investigating the imposition of the disciplinary penalty of isolation and the safeguards to be respected in the investigation of such cases;
4. To clearly distinguish the list of offences for which the disciplinary penalty of isolation may be imposed on a serviceman, and to make sure that the investigation of such offences complies with the requirements of Article 6 of the European Convention concerning the investigation of criminal cases, including trial by an independent tribunal, the equality of arms, and the provision of adequate time and the facilities for the preparation of the defense;

²⁵ *Sunday Times v the United Kingdom* (no. 1), judgment of 26 April 1979, Series A no. 30, p. 31, § 49.

5. To investigate penalties for which isolation sentences may not be imposed in line with the existing procedure, whilst making sure that investigation is actually conducted;
6. To make a reasoned decision on the imposition of a disciplinary penalty, which must specify the factual circumstances of the offence, the legal grounds for the imposition of the penalty, justification of the choice of the penalty type, and, in case the penalty of confinement in an isolator is ordered, also justification as to why the imposition of other penalties is considered ineffective; the reasoned decision must contain information on the appeal procedure, and a copy of the decision must be provided to the person against whom the penalty was imposed;
7. To ensure consistent practice of imposition of disciplinary penalties and to preclude arbitrariness in the selection of penalty types;
8. To develop a procedure safeguarding the effective exercise of the right to appeal against the decision on imposing a disciplinary penalty.

2.2. Conditions of Confinement of Persons Subjected to Disciplinary Penalties on the Basis of the Disciplinary Statute of the Armed Forces of the Republic of Armenia in Disciplinary Isolators

First and foremost, it should be born in mind that groups held in disciplinary isolators are subject to certain international standards such as the Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Geneva, 1955) and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977 (hereinafter, “the Minimum Rules”), as well as the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment approved by UN General Assembly resolution 43/173 of 9 December 1988 (hereinafter, “the Body of Principles”), Recommendation Rec(2006)2 of the Committee of Ministers of the Council of Europe to member states on the European Prison Rules (adopted by the Committee of Ministers in January 2006, hereinafter “the European Prison Rules”).

All of the aforementioned rules concern not only persons held in the prison system or deprived of liberty, but also persons held in other places for various reasons.

The European Prison Rules are applicable to persons who have been remanded in custody by a judicial authority or who have been deprived of their liberty following conviction.

The European Prison Rules also apply to persons who may be detained for any other reason in a prison or who have been remanded in custody by a judicial authority or deprived of their liberty following conviction and who may, for any reason, be detained elsewhere.²⁶

Article 3 of the European Convention requires states to ensure that a person deprived of his liberty is detained in conditions which

²⁶ Paragraph 10 of the European Prison Rules.

are compatible with respect for his human dignity, that the manner and method of the execution of the measure do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his health and well-being are adequately secured by, among other things, providing him with the requisite medical assistance.²⁷ Furthermore, state bodies are under the positive obligation to protect the health of persons deprived of their liberty.²⁸

The prohibition of inhuman and degrading treatment requires the provision of certain conditions for holding persons deprived of their liberty. The international standards on the conditions of detention of persons deprived of liberty do not differentiate between the conditions of detention and conditions of confinement of persons deprived of liberty as a consequence of a criminal sentence or disciplinary penalty. The standards clearly prescribe that everyone deprived of liberty must be detained in minimum conditions which are compatible with respect for his human dignity.

The cells of persons deprived of liberty must meet the necessary conditions for protecting health. Due attention should be paid to the weather conditions, the air density, space, lighting, heating, and ventilation.

The international standards set forth a number of mandatory conditions that must be met for ensuring humane and non-humiliating treatment.

The Standard Minimum Rules for the Treatment of Prisoners, in particular, provide:

- All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and

²⁷ *Kudła v Poland* [GC], no. 30210/96, §§ 92-94, ECHR 2000-XI.

²⁸ *Hurtado v Switzerland*, judgment of 28 January 1994, Series A no. 280-A, opinion of the Commission, § 79.

particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

- In all places where prisoners are required to live or work,
 - (a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;
 - (b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.
- The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.
- Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.
- All parts of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.
- Persons deprived of liberty shall be provided clean underclothing in accordance with the requirements of hygiene. Every prisoner shall be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.
- Every prisoner shall be provided with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.
- Drinking water shall be available to every prisoner whenever he needs it.

It should be taken into consideration that the sanitary requirements apply to not only the cleanliness of the institutions, but also the personal hygiene of the persons deprived of liberty. Hence,

the availability of clean clothes and bedding are factors predetermining the proper maintenance of hygiene. The European Court has noted in a number of cases that the lack of sanitation and hygiene conditions can amount to degrading treatment.²⁹ The Committee for the Prevention of Torture has noted that ready access to proper toilet facilities and the maintenance of good standards of hygiene are essential components of a humane environment.³⁰

The competent state bodies shall ensure the provision of quality food taking into account the peculiarities of the needs of different age groups or other groups. Though it is not prohibited for persons deprived of liberty to cook their meals, they shall be given the necessary supplies and means for preparing the food.

In a number of cases, the European Court found, in connection with the standards of hygiene, a violation of Article 3 of the European Convention in cases in which the persons deprived of their liberty were not given the necessary quantity of hygiene supplies and detergents, and found that such conditions imposed mental and physical suffering on persons deprived of their liberty and demeaned their human dignity. In another case, the European Court found a violation of Article 3 of the European Convention on the ground that the basin did not work, the bars limited the penetration of light, and the room was not properly ventilated.³¹

Under Paragraph 16 of Appendix 14, persons isolated as a disciplinary penalty, arrested persons, detained persons, and convicted servicemen are held separately. Non-commissioned officers and officers isolated as a disciplinary penalty are held in segregation from rank and file servicemen.

Rank and file servicemen are held in locked cells where they sleep on wood boards without bedding, pillows, or blankets, with their uniforms on, permitted to take off only their shoes. During the daytime, the wood boards are removed, and the foldable wood

²⁹ *Kalashnikov v Russia*, no. 47095/99, ECHR 2002-VI, *Peers v. Greece*, no. 28524/95, ECHR 2001-III.

³⁰ *2nd General Report [CPT/Inf (92)3] para. 49.*

³¹ *Yakovenko v Ukraine*, no. 15825/06, 25 October 2007.

boards are locked. Rank and file servicemen isolated as a disciplinary penalty are not allowed to smoke.

The detention conditions stipulated by the Republic of Armenia legislation for holding persons isolated as a disciplinary penalty impose additional physical hardships and can be considered to breach Article 5 of the Universal Declaration of Human Rights, Article 7 of the International Covenant on Civil and Political Rights, Article 3 of the European Convention, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.³²

The detention conditions of non-commissioned officers isolated as a disciplinary penalty differ from those of rank and file servicemen. Non-commissioned officers are given bedding, and their cells are not locked. Non-commissioned officers, arrested persons, detained persons, defendants, and convicts are allowed to smoke in special designated places. The procedures concerning officers, including their admission and detention procedures are currently not regulated by the legislation and need to be addressed. In practice, however, the issues concerning officers are regulated in the same way as those concerning non-commissioned officers.

Under Paragraph 20 of Appendix 14, persons isolated as a disciplinary penalty may not receive visitors or send or receive letters. Besides, they may not make telephone calls. These prohibitions breach the inmates' right to stay in touch with the outside world. The Minimum Rules (Paragraph 37) and the European Prison Rules (Paragraph 24) provide that prisoners have the right to communicate with the outside world. They shall be allowed to communicate with their family, other friends, and representatives of outside organizations by telephone, letters, and receiving visits.

³² Article 5 of the Universal Declaration of Human Rights, Article 7 of the International Covenant on Civil and Political Rights, "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment"; Article 3 of the European Convention on Human Rights, "Prohibition of Torture."

Paragraph 18 of Appendix 14 provides that the cells shall be ventilated every day during outdoor exercise or work. This provision implies that the cells shall not be ventilated during the other hours, and that inmates cannot ventilate the cells upon necessity regardless of the season.

Besides, according to the Minimum Rules (Paragraph 11), in all places where prisoners are required to live or work, (a) the windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation.

Paragraph 18 of Appendix 14 provides that corridors and toilets shall be lit when it is dark, and cells shall be lit during sleep.

Paragraph 5 of the Disciplinary Statute provides that, prior to being taken to the disciplinary isolator, all inmates shall, if necessary, undergo sanitary processing (shower in the bathhouse) and disinfection of clothes. In the isolator, showering once a week shall be permitted.³³ Taking into account Paragraph 5 of Appendix 5 to the Disciplinary Statute (if a serviceman is isolated for more than 7 days, clean linen replacement shall be provided to him), only persons isolated for 7 days or longer shall be allowed to shower in the isolator. Effectively, if there is no sanitary processing day in the detachment, then servicemen shall not shower, and once they are admitted to the isolator, they can shower only after 7 days. It can lead to a situation in which servicemen may go as long as a week without a shower. Whereas, Paragraph 19.4 of the European Prison Rules provides that adequate facilities shall be provided so that every prisoner may have a bath or shower, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene. This is an urgent issue that must be resolved in such a way as to secure the servicemen's right to have a shower or bath at least twice a week.

Paragraph 17 of Appendix 14 provides that soldiers not engaged in employment shall be given line drills and regulation study drills for up to 8 hours per day. However, the study showed that, although

³³ Paragraph 22 of Appendix 14.

servicemen mostly did not get engaged in employment, only few of the isolators conducted line drills, and the servicemen mostly remained idle during the whole day.

To this end, it is necessary to provide employment to servicemen and make sure that various drills and exercises are conducted with them.

Chapter 3. Conditions of Confinement of Arrested and Detained Persons in Disciplinary Isolators

Arrested and detained persons shall be held in disciplinary isolators in accordance with the Republic of Armenia Law on Holding Arrested and Detained Persons (hereinafter, “the Law”), which prescribes the general principles, conditions, and procedure of holding persons arrested and detained in accordance with the Republic of Armenia Criminal Procedure Code, the rights of arrested and detained persons, the safeguards of such rights, their obligations, and the procedure of release from arrest and detention. The particular conditions of holding arrested persons in the isolator shall be defined also by the Internal Regulation of Garrison Disciplinary Isolators (hereinafter, “the Internal Regulation”).

The study revealed that criminal and disciplinary penalties are not sufficiently delineated in practice. It often leads to double sanctions. A serviceman can be isolated as a disciplinary penalty for his offences, whilst also instigating a criminal case against him for the same offence, and deciding to arrest him after the isolation penalty term has ended. One of the inmates mentioned that a disciplinary penalty had been imposed on him for an act that he had not committed. He had been isolated, and during the isolation, an investigator had repeatedly interrogated him in connection with another act, after which he was arrested.

Besides, there are often cases in which a serviceman is interrogated for several months on the premises of the detachment without assigning to him any procedural status, for instance, that of a witness, and failing to inform him of the right to have a lawyer; as a result, a criminal case is instigated against him on the basis of evidence obtained from him during such interrogation.

This practice breaches the procedure stipulated by the Criminal Procedure Code and significantly limits the person’s fundamental rights and freedoms under the Constitution and the international texts.

An arrested person may be admitted to a disciplinary isolator on the basis of the relevant documents compiled in accordance with the procedure stipulated by the Republic of Armenia Criminal Procedure Code, i.e. the decision of the criminal prosecution body or the arrest protocol.³⁴ Arrested persons shall be held in the disciplinary isolator for no more than 72 hours, until a measure of restraint is ordered by court.³⁵

Detained persons may be held on the basis of a court decision made in accordance with the Criminal Procedure Code on the imposition of detention as a measure of restraint.³⁶ Persons detained in a disciplinary isolator may be held for no more than 72 hours until the preparation of the relevant documents, following which the detained persons are transferred to one of the penitentiary institutions under the jurisdiction of the Ministry of Justice of the Republic of Armenia.³⁷ In exceptional cases, when there is a significant distance or inadequacy of transport and road communication, and transferring servicemen during the set period is impossible, they may be held in a garrison disciplinary isolator for up to 15 days.³⁸

Arrested and detained persons have the right to:

- Receive information on their rights, freedoms, and duties;
- An adequate standard of health, including adequate food, emergency health care, and examination by a doctor of their choosing at their expense;
- Legal assistance;

³⁴ Article 4 of the Internal Regulation.

³⁵ Paragraph 2 of Appendix 14.

³⁶ Article 3 of the Law.

³⁷ Detailed information on the confinement conditions of detained persons held in the penitentiary system of the Ministry of Justice of the Republic of Armenia can be obtained from the 2008 Report on the Penitentiary System of the Ministry of Justice of the Republic of Armenia published by the Group of Public Observers Monitoring the Penitentiary Institutions and Bodies of the Ministry of Justice of the Republic of Armenia (available online at http://www.hra.am/documents/PMG_Report_2008_arm.pdf)

³⁸ Paragraph 2 of Appendix 14.

- Personal safety; and
- Communication with the outside world.³⁹

Paragraph 32 of Appendix 14 provides that visits with persons detained by the investigator⁴⁰ and to arrested persons, as well as visits with accused persons may be organized only with the permission of the body or person under whose jurisdiction the person is.

However, this provision contradicts Article 15 of the Law, which provides that an arrested or detained person shall be allowed to have unhindered private visits with his defense counsel without any limitation on the number or duration of such visits after the decision of the criminal prosecution body on the arrest of the arrested and detained person or the arrest protocol or the decision to impose detention as a measure of restraint has been communicated to him.

Article 17 of the Law provides that arrested and detained persons have the right to communicate with their family and the outside world, and that appropriate conditions must be created for the exercise of this right, including visit rooms and communication facilities. However, the monitoring revealed that only two of the isolators had telephones that were accessible. The staff of the other isolators noted that, if necessary, they would allow the inmates to make calls using the personal telephones of the staff, which cannot be considered adequate compliance with the requirements of the legislation.

Unlike rank and file servicemen isolated as a disciplinary penalty, arrested and detained persons shall be provided with bedding.⁴¹ This requirement is mostly complied with. The monitoring showed that bedding was not being provided to them in only one isolator, the Sevan Garrison Disciplinary Isolator (Chambarak).

³⁹ Article 13 of the Law.

⁴⁰ It is necessary to harmonize the terms used in the legislation on disciplinary isolators with the extant laws of the Republic of Armenia, such as the Criminal Procedure Code, the Law on Holding Arrested and Detained Persons, and the Penitentiary Code. The terms also should be clarified: a person may be detained only by court decision, but not by an investigator.

⁴¹ Paragraph 24 of Appendix 14.

Chapter 4. Conditions of Confinement in Disciplinary Isolators of Persons Convicted to Detention Sentences

Courts may convict servicemen to detention sentences for committing crimes against the military service order, which are proscribed by the Criminal Code of the Republic of Armenia (Articles 356, 359, 360, 361, 363, 364, 368, and 377 of the Criminal Code). “Detention” is a convict’s confinement in a correctional institution deprived of liberty in strict isolation from society. Courts may order detention for a term of 15 days to 3 months, provided that detention has not earlier been imposed as a measure of restraint.⁴²

Servicemen shall serve detention sentences in garrison disciplinary isolators similar to servicemen on whom the disciplinary penalty of isolation is imposed. Servicemen convicted to detention sentences shall be subject to the provisions of Chapter 12 of the Penitentiary Code of the Republic of Armenia, as well as the Internal Regulation of Disciplinary Isolators.

Under Article 56 of the Penitentiary Code, convicts shall be held in conditions of strict isolation. The same article provides that convicts may not have visits with the exception of visits by the defense counsel. The law contemplates two other exceptions: minors shall be granted a short-term visit of up to four hours by parents or other lawful representatives once per month, and in case of exceptional personal circumstances (death or life-threatening serious illness of a close relative, or a natural disaster inflicting significant material damage upon the convict or his family), the institution governor may allow a convict to use the telephone or to have a short-term visit of up to four hours. Convicts serving detention sentences may not have correspondence or receive deliveries, parcels, or packages, with the exception of essential objects and seasonal clothes. Basic or secondary vocational education of convicts is not organized.⁴³

⁴² Article 57 of the Criminal Code.

⁴³ Article 56 of the Penitentiary Code.

Recommendations on Disciplinary Isolators

In order to improve the conditions of confinement in disciplinary isolators of persons on whom disciplinary penalties are imposed or who are arrested or detained or who are serving sentences in the form of detention on the basis of the Disciplinary Statute of the Armed Forces of the Republic of Armenia, we recommend:

To introduce consistent conditions on holding persons on whom disciplinary penalties are imposed, arrested and detained persons, and persons sentenced to detention or confinement in a disciplinary battalion, which must comply with the minimum criteria stipulated by the European Prison Rules, including:

- Bedding shall be provided to all servicemen on whom the disciplinary penalty of isolation is imposed;
- The discriminatory provision in the legislation that prohibits soldiers from smoking during isolation, as opposed to non-commissioned officers, shall be repealed;
- The possibility to bath or shower at least twice a week, as stipulated by the Prison Rules, shall be safeguarded;
- Convenient chairs located close to the tables shall be installed in the cells;
- The possibility of holding persons *incommunicado* shall be precluded, and opportunities for correspondence, telephone communication, and visits with relatives, including the opportunity to receive news and information from the outside world, shall be secured;
- To ensure ventilation, the possibility for persons deprived of liberty to open the cell windows on their own shall be secured;
- A mechanism shall be developed to secure the permanent supply of drinking water in order to avoid having to request a new quantity of water from the administration;
- Benches shall be installed in the exercise yards, with cover to protect them from precipitation;

- A mechanism for use of the sanitary facilities shall be developed to secure their unhindered access for persons deprived of their liberty: for example, partitioned sanitary facilities shall be installed in cells, as it has been done in the penitentiary system;
- The preparation of food in the isolators shall be ruled out unless special conditions and provisions for the preparation of food are put in place and the food preparation and delivery conditions comply with the sanitation and hygiene rules and standards concerning food stipulated by the Republic of Armenia legislation; and
- Install gas infrastructure in the isolators so as to efficiently heat the institutions to the required temperature and achieve significant cost savings for the state.

Chapter 5. Overview of the Disciplinary Battalion and Procedure of Serving Sentences Therein

The disciplinary battalion is located near the town of Hrazdan, adjacent to the “Sevan” penitentiary institution. The battalion has operated since 1993. Prior to it, the buildings served as a warehouse of the Ministry of Interior and were not designated as accommodation for persons. The conditions of the premises are extremely unfavorable; the building is not standardized and does not have a foundation, which makes its walls very moist. Current repairs are ineffective, and a new building for holding convicts is needed.

The battalion can hold a maximum of 90 persons at any given time. However, throughout its history, the institution never had more than 35 inmates. The battalion is divided into two zones, the zone for convicts and the zone for the administration and conscription servicemen. The conscription servicemen carry out the general protection of the battalion.

The zone for convicts is isolated and contains only one building. The building contains the accommodation, the canteen, the sanitary facilities, the gym, the barber’s shop, the warehouse, the officer’s room, the common room, the reading room, and the sanctuary. The accommodation surface area is about 200 square meters (24 x 8.5 meters), with an average ceiling height of about 8 meters (the ceiling is uneven).

In the accommodation, there are 13 double-deck beds and small cupboards for personal items (each cupboard is designed for use by two inmates). There are also small chairs, a television set, a DVD player, and a stereo player. A fact board is posted on the wall.

Three lamps hang on the ceiling for provision of artificial lighting. Natural light penetrates through 8 windows. The floor is concrete and covered with linoleum. The accommodation is designed for sleeping and classes.

The accommodation is heated with a wood stove: as the area is very large and the ceiling too high, achieving the requisite

temperature during the months that require heating (September to May) is quite difficult.

There are 9 tables in the canteen, each for 6 persons. The menu is posted on the wall. There are two separate areas in the canteen, one for washing the dishes, and the other for storing the food and distributing it to the inmates. The canteen housekeeping is performed by the serviceman on duty each day.

The sanitary facilities are in dire straits, lacking any renovation and conditions. However, it was noticeable that the administration was exerting efforts to maintain cleanliness.

There are 6 washbasins in the common area, as well as one bench and a mirror. The toilets (Asian squat-type) are in the same area, partitioned with a wall. The shower section, too, is partitioned with a wall and contains two showers and water tanks that heat the water with electricity. During the visit, the bathhouse was being renovated.

The Penitentiary Code prescribes short-term visits for convicts serving their sentence in the disciplinary battalion. The room for short-term visits is outside the zone for convicts. It contains tables and chairs, as well as a small shop. Documents regarding visits and deliveries are posted on the walls.

The health post, too, is located outside the zone for convicts. It serves both the convicts and the conscription servicemen in the battalion. The health post is divided into two parts, the doctor's room and a room for patients. Given the small size of the patient room, the 10 beds are located too close to one another. The doctor's room is very small, too. At the time of the visit, the whole health post was in a rather bad condition.

The battalion kitchen is designed for food preparation for both the conscription servicemen and the convicts serving their sentence in the battalion. The conscription servicemen dine in the canteen adjacent to the kitchen, while the food for convicts is transferred to the canteen located in the zone for convicts in special containers. The cooks are civilian employees.

The quality of the food in preparation at the time of the visit was satisfactory.

There is a gym in the zone for convicts. It contains a tennis table, weight bars, weights, and facilities for playing basketball and volleyball.

Article 52 of the Penitentiary Code provides that up to 15 days' detention may be imposed as a penalty, which convicts shall serve in a punishment cell. No punishment cells existed during the visit in 2007. The administration claimed that they had never needed any punishment cells, but noted that they planned to build two such cells. During the visit in 2009, two punishment cells already existed in the disciplinary battalion. However, the staff still insisted that the punishment cells were never used. The facilities in the punishment cells corresponded to that in the one-inmate cells in the disciplinary isolator, including a foldable wood board, a chair fixed to the ground on which the unfolded wood board would lean, a small table fixed to the ground that was 2-3 meters away from the chair, small grids on the window from the inside, and no possibility to open the window from inside. The natural light was sufficient.

Soap was the only item of personal hygiene provided to the convicts in the disciplinary battalion. The reason for this shortcoming was that conscription servicemen received a salary that they used to purchase personal hygiene items, while convicts did not receive either salaries or hygiene supplies. Convicts received the necessary hygiene supplies from either relatives or the institution administration (at their personal expense). This is a gap that places convicts held in the battalion in a less favorable situation than other convicts. Therefore, sanitation and hygiene supplies shall be provided to the convicts at the expense of the budget, as it is currently done in penitentiary institutions.

Article 58 of the Criminal Code of the Republic of Armenia provides that the sentence of three months' to three years' confinement in the disciplinary battalion may be ordered in respect of a conscription servant who committed a non-grave or medium-gravity crime in the cases stipulated by the Special Part of the Criminal Code of the Republic of Armenia, as well as in cases in

which the court, taking into account the circumstances of the case and the convict's personal character, considers appropriate to impose a penalty of confinement in a disciplinary battalion for a maximum three-year term instead of the sentence of imprisonment for the same term.

Confinement in a disciplinary battalion is performed in accordance with the provisions of Chapter 11 of the Penitentiary Code of the Republic of Armenia (Articles 47 to 54).

A certain procedure of executing and serving the sentence in the disciplinary battalion shall be prescribed to ensure the treatment of the convict, the fulfillment of duties and military service requirements, the protection of rights and lawful interests, supervision of the convict, and the personal safety of the servicemen and the disciplinary battalion staff.

Convicts must comply with the internal regulation of the disciplinary battalion approved by the competent body of state administration.⁴⁴

Regardless of their military rank and past position, convicts shall have the status of rank and file servicemen during the serving of their sentence, and shall wear the uniform described by the Internal Regulation of the disciplinary battalion, without any distinguishing signs.

Convicts may be engaged in unpaid public work for no more than two hours per day.

While in the disciplinary battalion, convicts may not have cash, including foreign currency and securities, as well as other objects and items prohibited by the Internal Regulation of the disciplinary battalion. If any cash, including foreign currency, securities, or other valuables, is discovered, it shall be seized in accordance with the Internal Regulation of the disciplinary battalion and kept until the release of the convict. Objects and items seized from the convict shall, by order of the disciplinary battalion commander, transferred for safekeeping or destroyed, about which a relevant protocol shall be compiled.

⁴⁴ Article 48 of the Penitentiary Code.

The list and quantities of food and essential items that convicts are permitted to have, acquire with non-cash settlement, or receive in deliveries, parcels, and packages, shall be defined in the Internal Regulation of the disciplinary battalion. Convicts may spend an amount of up to 30-fold the minimal salary in the Republic of Armenia out of their personal account for purchases of food and essential items.⁴⁵

Article 50(2) of the Penitentiary Code provides that convicts are entitled to at least two short visits per month. Inmates are allowed to have visits with close relatives or, with the permission of the disciplinary battalion commander or in cases provided by law, with other persons.

The legislation does not stipulate long visits for convicts held in the disciplinary battalion. It results in differentiated treatment of convicts held in the disciplinary battalion and other convicts, leading to more severe conditions of serving the sentence for the former. Convicts held in the penitentiary system are entitled to long visits; experience has shown that long visits help to maintain ties with the family and positively influence the moral and psychological condition of the convict.

The Internal Regulation of the disciplinary battalion prescribes the procedure and frequency of use of communication means, including the telephone.

Correspondence may be performed through the command of the disciplinary battalion; letters are subject to external examination, without censorship of the content, with a view to preventing the transfer of prohibited objects or substances. Letters addressed to an inmate, which are received in his absence, shall be forwarded to his current location.⁴⁶ Convicts shall be provided with the hygienic and anti-epidemiological supplies needed for the maintenance of good health in line with the standards set forth for servicemen.⁴⁷

⁴⁵ Article 49 of the Penitentiary Code.

⁴⁶ Article 50 of the Penitentiary Code.

⁴⁷ Article 54 of the Penitentiary Code.

Recommendations on the Disciplinary Battalion

With a view to improving the conditions of serving the sentence in the disciplinary battalion, we recommend:

- To allocate a new building in line with the contemporary standards for the confinement of inmates in the disciplinary battalion;
- To amend the legislation to permit long visits for convicts held in the disciplinary battalion, which will help to maintain ties with the family and will positively influence the moral and psychological condition of the convict; and
- To ensure the provision of sanitation and hygiene supplies to persons confined in the disciplinary battalion in the same way as it is currently done in the penitentiary institutions.

Recommendations

- Refrain from imposing the disciplinary penalty of isolation until such time when legal grounds and mechanisms not contravening Article 16 of the Constitution are created under the legislation;
- Harmonize the practical application of disciplinary penalties with the requirements of Article 6 of the European Convention, i.e. impose isolation only by court order;
- Develop a special procedure on the investigation of cases related to the imposition of disciplinary penalties in the form of isolation, including the safeguards to be met in the investigation of such cases;
- Clearly prescribe the list of offences for which a disciplinary penalty in the form of isolation may be imposed on servicemen, and make sure that such offences are investigated in line with the requirements of Article 6 of the European Convention concerning the investigation of criminal cases, including trial by an independent tribunal, the equality of arms, and the provision of adequate time and the facilities for the preparation of the defense;
- Investigate penalties for which isolation sentences may not be imposed in line with the existing procedure, whilst making sure that investigation is actually conducted;
- Make a reasoned decision on the imposition of a disciplinary penalty, which must specify the factual circumstances of the offence, the legal grounds for the imposition of the penalty, justification of the choice of the penalty type, and, in case the penalty of confinement in an isolator is ordered, also justification as to why the imposition of other penalties is considered ineffective; the reasoned decision must contain information on the appeal procedure, and a copy of the decision must be provided to the person against whom the penalty was imposed;

- Ensure consistent practice of imposition of disciplinary penalties and preclude arbitrariness in the selection of penalty types;
- Develop a procedure safeguarding the effective exercise of the right to appeal against the decision on imposing a disciplinary penalty;
- Introduce consistent conditions on holding persons on whom disciplinary penalties are imposed, arrested and detained persons, and persons sentenced to detention or confinement in a disciplinary battalion, which must comply with the minimum criteria stipulated by the European Prison Rules, including:
 - Bedding shall be provided to all servicemen on whom the disciplinary penalty of isolation is imposed;
 - The discriminatory provision in the legislation that prohibits soldiers from smoking during isolation, as opposed to non-commissioned officers, shall be repealed;
 - The possibility to bath or shower at least twice a week, as stipulated by the Prison Rules, shall be safeguarded;
 - Convenient chairs located close to the tables shall be installed in the cells;
 - The possibility of holding persons *incommunicado* shall be precluded, and opportunities for correspondence, telephone communication, and visits with relatives, including the opportunity to receive news and information from the outside world, shall be secured;
 - To ensure ventilation, the possibility for persons deprived of liberty to open the cell windows on their own shall be secured;
 - A mechanism shall be developed to secure the permanent supply of drinking water in order to avoid having to request a new quantity of water from the administration;
 - Benches shall be installed in the exercise yards, with cover to protect them from precipitation;

- A mechanism for use of the sanitary facilities shall be developed to secure their unhindered access for persons deprived of their liberty: for example, partitioned sanitary facilities shall be installed in cells, as it has been done in the penitentiary system;
 - The preparation of food in the isolators shall be ruled out unless special conditions and provisions for the preparation of food are put in place and the food preparation and delivery conditions comply with the sanitation and hygiene rules and standards concerning food stipulated by the Republic of Armenia legislation; and
 - Install gas infrastructure in the isolators so as to efficiently heat the institutions to the required temperature and achieve significant cost savings for the state.
- Allocate a new building in line with the contemporary standards for the confinement of inmates in the disciplinary battalion;
 - Amend the legislation to permit long visits for convicts held in the disciplinary battalion, which will help to maintain ties with the family and will positively influence the moral and psychological condition of the convict; and
 - Ensure the provision of sanitation and hygiene supplies to persons confined in the disciplinary battalion in the same way as it is currently done in the penitentiary institutions.

Statement

On the Review of Garrison Disciplinary Isolators and the Disciplinary Battalion under the Ministry of Defense of the Republic of Armenia Carried out in 2009 by the “Civil Society Institute” Non-Governmental Organization

Disciplinary Isolator of the Armavir Garrison Military Police Station

The construction of the new disciplinary isolator of the Armavir Garrison Military Police (“GMP”) station, which was contemplated by the Republic of Armenia Ministry of Defense Capital Construction Program, was due to be completed in 2009. However, the construction works were delayed because of the crisis. The current plan, as per the 2010 Program, is that the disciplinary isolator construction works shall be carried out in the second half of 2010.

Disciplinary Isolator of the Ararat Military Police Station of the Yeghegnadzor Garrison

During March and April 2010, construction and renovation works were carried out in the Ararat Military Police station. The bathhouse and exercise yard were constructed and put into operation. The toilet was renovated. The food preparation and dining area, too, were renovated in line with all the sanitation rules.

Disciplinary Battalion

The bathhouse and health post renovation works have ended, but the operation of the shop has terminated. A letter was sent to the supervisor on the provision of sanitation and hygiene supplies by setting aside some portion of the money allocated to the detachment for the procurement of the requisite supplied for the convicts. Cigarettes are currently provided to the convicts.

Furthermore, the Minister of Defense of the Republic of Armenia has instructed to change the location of the disciplinary battalion and to ensure compliance with all the relevant standards; this work is currently underway.

A proposal to replace the disciplinary isolators with disciplinary companies has been submitted to the National Assembly of the Republic of Armenia for review. In the meantime, the renovation, reconstruction, and other works planned in all the disciplinary isolators within the Ministry of Defense system have been temporarily suspended. If the proposal is adopted, appropriate changes will be made.

**Acting Chief of the Military Police,
Colonel H. STEPANYAN**

Annex 1

Appendix 14 to the Republic of Armenia Law on Approving the By-Laws of the Garrison Services and Patrol Services of the Armed Forces of the Republic of Armenia

Articles 38, 41, 46, 96, 164, 168, and 197

ON THE DISCIPLINARY ISOLATOR

GENERAL PROVISIONS

1. A garrison disciplinary isolator is designated for holding servicemen whose isolation has been ordered as a disciplinary penalty based on the Disciplinary Statute of the Armed Forces of the Republic of Armenia, as well as servicemen arrested or detained on the basis of the Republic of Armenia Criminal Procedure Code or convicted by court.

(Paragraph 1 is restated as amended by Law HO-70-N dated 28.04.04)

2. Servicemen shall be held in a garrison disciplinary isolator as follows:

- Servicemen whose isolation has been ordered as a disciplinary penalty: for the term mentioned in the letter on isolation;

- Persons arrested by decision of the inquest or investigation body: for no more than 72 hours (until a measure of restraint is ordered by court);

- Detained persons: for no more than 72 hours (until the relevant documents are prepared and the person is transferred to a penitentiary institution). In exceptional cases, when the transfer of servicemen during the aforementioned time period is impossible due to a long distance or the inadequacy of transport or road communication, they may be held in a garrison disciplinary isolator for up to 15 days;

- Defendants: until the end of the trial, but for no more than 72 hours;

- Persons convicted by court to a sentence to be served in the disciplinary battalion: until the judgment becomes final and until the transfer to a disciplinary battalion during a maximum of 72 hours. In exceptional cases, when the transfer of servicemen during the aforementioned time period is impossible due to a long distance to the location of the disciplinary battalion or the inadequacy of transport or road communication, they may be held in a garrison disciplinary isolator for up to 15 days;

- Persons convicted to deprivation of liberty: no more than 72 hours after receiving a copy of the judgment;

- Persons convicted by judgment to a detention sentence: for the period indicated in the judgment;

- Servicemen apprehended for being intoxicated or not having documents: for no more than 24 hours, until a sanctioning decision is taken in respect of them.

(Paragraph 2 is restated as amended by Law HO-70-N dated 28.04.04)

3. The following are the grounds for admission of servicemen to a garrison disciplinary isolator:

- Persons on whom the disciplinary penalty of isolation is imposed: the isolation letter;

- Arrested persons: a decision of the inquest or investigation body on arresting the person, or the arrest protocol;

- Detained persons: the court's decision on imposing detention as a measure of restraint;

- Defendants: the decision of the investigator, prosecutor, or court based on Article 6 of the Republic of Armenia Law on Holding Arrested and Detained Persons, endorsed with the seal of the relevant body;

- Convicts: the court's judgment in the cases stipulated by subparagraphs 5-7 of Paragraph 2 of this Appendix;

- Servicemen apprehended in a state of intoxication or without documents: the protocol compiled by the officer on duty in the Military Police Station and the person apprehending the serviceman, with a note by the Military Commandant or the Chief of the Military Police Station.

(Paragraph 3 is restated as amended by Law HO-70-N dated 28.04.04)

4. In case of breaching the internal regulation of the isolator or neglecting the performance of work, servicemen on whom the disciplinary penalty of isolation is imposed shall, based on a written report by the isolator governor, be subjected to an additional penalty by the Military Commandant within the authority of the latter. In case of imposing a penalty in the form of an extension to the isolation period, a repeat isolation letter shall be compiled, and a note about its communication to the detachment command shall be made on the letter. In such cases, the total duration of isolation of rank and file conscription servicemen shall not exceed 20 days, and that of contract servicemen, including non-commissioned officers, 10 days.

(Paragraph 4 is restated as amended by Law HO-70-N dated 28.04.04)

(This Section is restated as amended by Law HO-70-N dated 28.04.04)

TRANSFER TO A DISCIPLINARY ISOLATOR AND CONTROL (CONVOY)

6. A serviceman shall be deemed isolated as from the time of making a decision on imposing a measure of restraint.

Persons on whom the disciplinary penalty of isolation has been imposed shall be transferred to the isolator with a letter on isolation.

Servicemen isolated by the investigator shall be transferred to the isolator by decision of the investigator or investigative body authorized by the military prosecutor. Servicemen arrested by the military prosecutor shall be transferred to the isolator based on the military prosecutor's decision, and convicts based on the court's judgment.

(Paragraph 6 is restated as amended by Law HO-70-N dated 28.04.04)

7. Soldiers on whom the disciplinary penalty of isolation has been imposed shall be transferred to the isolator in a group of no more than three persons, escorted by convoy.

Sergeants shall be transferred separately from soldiers.

8. Non-commissioned officers on whom the disciplinary penalty of isolation has been imposed shall report to the isolator on their own.

9. To transfer the isolated persons to the garrison isolator, the Garrison Military Commandant shall [based on an order of the detachment chief of staff] be provided with a vehicle.

The escorting soldiers shall be seated in the front part of the vehicle in such a way as to be able constantly to watch the isolated persons.

10. Servicemen arrested by an investigator, persons accused or convicted by court, persons isolated pending determination of their identity, and, if necessary, persons on whom the disciplinary penalty of isolation has been imposed shall be transferred to the prosecution, court, and elsewhere by convoy.

The convoy composition, duties, and protection procedure shall be determined by the Garrison Military Commandant (or detachment chief of staff) separately for each case.

The convoy shall bear the arms in the “carry” position. The arms may be charged only by order of the convoy-appointing chief in accordance with the rules laid down in Paragraphs 100 and 101 of these By-Laws.

(Paragraph 10 is restated as amended by Law HO-70-N dated 28.04.04)

11. Pedestrian movement with isolated persons in cities and large settlements, as well as their transfer in public transport shall be prohibited.

ADMISSION TO A GARRISON DISCIPLINARY ISOLATOR

12. Admission to a garrison disciplinary isolator may be performed by the isolator governor or, in his absence, the convoy chief.

(Paragraph 12 is restated as amended by Law HO-70-N dated 28.04.04)

13. Upon admission to the isolator, the serviceman’s uniform and presence of the necessary items (personal items, sanitary and hygienic supplies, replacement linen (if necessary), and winter clothing) shall be checked. An external examination of the serviceman shall be performed. Belts, official documents, and items and valuables that may not be kept in a cell shall be taken for safekeeping. The data required for admission to the isolator shall be compared and recorded in the log of persons held in the isolator. In case of any mismatch in items or documents, the person shall not be admitted to the isolator, and notice thereof shall be made in the presented documents.

(Paragraph 13 is restated as amended by Law HO-70-N dated 28.04.04)

14. A document on admission to the isolator shall be issued to the convoy officer, or mention of admission shall be made on the copy of the document that is the basis for admission. A note on the accepted items and valuables shall be recorded in the log, which shall be signed by the isolated person.

(Paragraph 14 is restated as amended by Law HO-70-N dated 28.04.04)

15. The items of non-commissioned officers on whom the disciplinary penalty of isolation has been imposed shall not be examined. The detachment command shall be notified of their admission, and a note thereon shall be made on the isolation letter.

(Paragraph 15 is restated as amended by Law HO-70-N dated 28.04.04)

(This Section is restated as amended by Law HO-70-N dated 28.04.04)

LIST OF NAMES OF ISOLATED PERSONS

#	Military Rank	Name, surname, and patronymic	Cell	Isolation Period	Release Date	Signature of the Isolator Governor (detachment duty officer) on Release

Disciplinary isolator governor (detachment duty officer) _____

 (military rank, signature, surname)

Note. After admission, the incoming duty officer shall make the following entry into the list: “At [time] on [day, month, year], I admitted [number] persons according to [list name].” He shall then sign it. The outgoing duty officer, too, shall sign the entry.

LOG OF PERSONS HELD IN THE ISOLATOR

YEAR 199__

#	Title, Military Rank, Name, Surname, and Patronymic	Detachment (conditional name of detachment)	Isolated by	Reason	Detention Term and Cell

PART TWO

Items, Documents, and Cash Admitted	Isolation Period	Isolation End Date	Note on Medical Examination Time and Showering	Note on Release	Signature Confirming Receipt of Items, Documents, and Cash upon Release

Note. The “Isolated by” column shall be filled out in the following way: for convicts, “convicted by [name] military court”; for persons arrested or detained by the investigator, “detained by investigator [name], [investigation body] name, or military prosecutor [name]” (to be filled out by the investigative body or the military prosecutor).

ADMISSION CONFIRMATION SLIP FOR ISOLATED SERVICEMEN

Isolated _____
serviceman (military rank, name, and surname)

(signature, detachment)

Admitted to the isolator for _____ days, from _____ to

(time, day, and month)

[SEAL]

Disciplinary isolator governor (detachment duty officer) _____

(military rank, signature, surname)

The following shall be mentioned on the next page of the admission confirmation slip:

“The isolated serviceman’s items were complete (or, items ... were missing or excessive).”

Disciplinary isolator governor (detachment duty officer) _____

(military rank, signature, surname)

The isolator governor shall specify the items found on servicemen transferred to the garrison isolator in the isolation letter and sign it.

The personal documents of persons on whom the disciplinary penalty of isolation has been imposed shall be held by them or may be passed to the isolator governor (detachment duty officer) for safekeeping.

In the presence of the serviceman, the isolator governor shall record the information on items, objects, documents, and money found on the serviceman in the log and issue a slip on their receipt.

Thereafter, the isolated serviceman, with the letter on isolation, shall be sent to the chief guard for placement in a cell.

If the isolated serviceman is admitted to the garrison isolator by the chief guard, the latter shall issue to him a slip on items received. He shall present the slip and the items, together with the list of items, to the isolator governor.

14. Items in the possession of non-commissioned officers on whom the disciplinary penalty of isolation has been imposed shall not be examined. However, they shall be warned of the items they may possess while in a cell.

15. Upon admission of the serviceman, the chief guard shall sign the isolation letter and return it to the isolator governor (detachment duty officer).

The isolator governor (detachment duty officer) shall keep the isolation letter and issue a receipt to the convoy officer, which the latter shall pass on to the person who referred the isolated serviceman.

CONFINEMENT IN A GARRISON DISCIPLINARY ISOLATOR

16. Servicemen shall be confined in a garrison disciplinary isolator in the following way:

- Rank and file conscription servicemen on whom the disciplinary penalty of isolation has been imposed: together, in common cells;

- Rank and file contract servicemen, sergeants, and petty officers on whom the disciplinary penalty of isolation has been imposed: together, in common cells;

- Non-commissioned officers on whom the disciplinary penalty of isolation has been imposed: separate from rank and file servicemen and sergeants, in common cells;

- Arrested servicemen: in one-inmate cells;

- Detained servicemen: separate from servicemen on whom the disciplinary penalty of isolation has been imposed, and officers and non-commissioned officers separate from rank and file servicemen;
- Defendants: in one-inmate cells;
- Convicts: separate from all others, and persons awaiting transfer to a disciplinary battalion separate from other convicts;
- Servicemen in a state of intoxication: in one-inmate cells.

(Paragraph 16 is restated as amended by Law HO-70-N dated 28.04.04)

17. Rank and file conscription servicemen on whom the disciplinary penalty of isolation has been imposed may be engaged in employment for a maximum duration of 10 hours per day. Soldiers not engaged in employment shall be given line drill training and lessons on the statutes for a maximum duration of 8 hours per day. Rank and file conscription servicemen on whom the additional penalty of placement in a one-inmate cell has been imposed shall not be engaged in employment or lessons.

(Paragraph 17 is restated as amended by Law HO-70-N dated 28.04.04)

18. Sleep duration in the isolator shall be set at 8 hours per day, and outdoor exercise at no less than one hour per day. Servicemen on whom the disciplinary penalty of isolation has been imposed shall be taken for outdoor exercise separate from arrested and detained persons, defendants, and convicts. Rank and file servicemen shall be taken for outdoor exercise separate from non-commissioned officers. Arrested and detained persons, convicts, and defendants shall be taken for outdoor exercise separate from one another, during different hours. The cells shall be ventilated every day during the outdoor exercise or employment hours of the inmates. The daily and regular (once weekly) cleaning of the cells and toilets, the washing of the isolator floor, and the firing of the stove shall be performed by persons held in the isolator. When it is dark, corridors and toilets shall be lit. During the sleeping time, cells shall be lit. The

temperature in the cells shall be no less than 18 degrees Centigrade above zero.

(Paragraph 18 is restated as amended by Law HO-70-N dated 28.04.04)

19. Persons held in the isolator shall have the food in the cells or in the isolator canteen. Persons held in one-inmate cells shall have the food in the cells. In the canteen, the food shall be served to rank and file servicemen, officers, and non-commissioned officers separately from one another, at different hours.

(Paragraph 19 is restated as amended by Law HO-70-N dated 28.04.04)

20. Persons on whom the disciplinary penalty of isolation has been imposed shall be prohibited from playing any games, speaking through the window, making noise, singing, breaching the internal rules of the isolator, having visitors, or sending or receiving letters. Smoking shall be permitted only to non-commissioned officers, arrested and detained persons, defendants, and convicts in special designated areas.

(Paragraph 20 is restated as amended by Law HO-70-N dated 28.04.04)

21. The rights and duties of persons held in the isolator, their transfer procedures, incentives, penalties, and their application procedures shall be the same as those stipulated by the Republic of Armenia Law on Holding Arrested and Detained Persons.

(Paragraph 21 is restated as amended by Law HO-70-N dated 28.04.04)

22. The standard military food rations shall be provided to servicemen held in the isolator. Showering shall be permitted once weekly.

(Paragraph 22 is restated as amended by Law HO-70-N dated 28.04.04)

23. Servicemen held in the isolator shall be taken out of the isolator with convoy; if necessary, a vehicle shall be provided by the

Garrison Military Police Station Chief on the basis of a substantiated report by the isolator governor.

(Paragraph 23 is restated as amended by Law HO-70-N dated 28.04.04)

24. Conscription and contract rank and file servicemen on whom the disciplinary penalty of isolation has been imposed shall sleep on wood boards in the cells. They shall be allowed to take off only their shoes. At night, they shall be given winter coats. In exceptional cases, a winter coat may be given during the daytime, if the cell temperature is below 18 degrees Centigrade above zero. The wood boards shall be removed during the daytime, and the foldable wood boards shall be locked. Bedding shall be provided to non-commissioned officers, arrested and detained servicemen, and convicted servicemen for sleeping. The cells of rank and file servicemen shall be locked. The cells of non-commissioned officers shall not be locked.

(Paragraph 24 is restated as amended by Law HO-70-N dated 28.04.04)

25. Other conditions of confinement in the garrison disciplinary isolator shall be defined by the internal regulation.

(Paragraph 25 is restated as amended by Law HO-70-N dated 28.04.04)

(This Section is restated as amended by Law HO-70-N dated 28.04.04)

**CONFINEMENT IN THE DETENTION CENTER OF SERVICEMEN
CONVICTED BY COURT AND ACCUSED PERSONS DETAINED
AND ARRESTED BY THE INVESTIGATOR**

(The heading is restated as amended by Law HO-70-N dated 28.04.04)

30. Servicemen convicted by court and accused persons arrested or detained by the investigator shall be confined in the detention center separate from persons on whom the disciplinary

penalty of isolation has been imposed. Accused persons and convicts shall be held separate from persons arrested and detained by the investigator or investigative body. Officers and non-commissioned officers shall be confined separate from soldiers and sergeants.

(Paragraph 30 is restated as amended by Law HO-70-N dated 28.04.04)

31. At sleep time, servicemen convicted by court, accused servicemen, and servicemen arrested and detained by the investigator shall be given an overcoat, a mattress, and a pillow with a pillow sheet. They shall be allowed to smoke in designated areas.

In all other cases, convicts shall be confined on the same conditions as servicemen on whom the disciplinary penalty of isolation has been imposed.

(Paragraph 31 is restated as amended by Law HO-70-N dated 28.04.04)

32. Visits with servicemen detained and arrested by the investigator, as well as with accused persons shall be permitted only if authorized by the body or official that has jurisdiction over the case.

33. For purposes of supervising compliance with the laws, military prosecutors, their deputies, and assistants, investigators for the presentation of criminal cases, and defense counsel with personal IDs shall obtain permission to enter into the garrison isolator at any time with the knowledge of the isolator governor (chief guard on duty) or the military commandant, and into the detachment detention center by the detachment duty officer with the knowledge of the detachment chief of staff. The military prosecutor supervising compliance with the laws in a given isolator shall be informed of each instance when defense counsel is permitted to enter into the isolator. The aforementioned persons shall obtain permission to enter into cells of temporarily isolated persons in accordance with the same procedure.

RELEASE OF PERSONS ON WHOM THE DISCIPLINARY PENALTY OF ISOLATION HAS BEEN IMPOSED

34. Persons on whom the disciplinary penalty of isolation has been imposed shall be released by the isolator governor after the isolation period has expired. In case of death or grave illness of family members and close relatives, or any accident in the family, persons on whom the disciplinary penalty of isolation has been imposed may be released early by decision of the garrison military commandant.

Persons on whom the disciplinary penalty of isolation has been imposed may be released early on the eve of holidays, elections of the Republic of Armenia President or members of the National Assembly, or of any referendum by permission of the military commandant.

(Paragraph 34 is restated as amended by Law HO-70-N dated 28.04.04)

35. Arrested servicemen shall be released immediately after the 72-hour restraint period has expired or by decision of the investigation (inquest) body prior to the expiry of such period. Detained persons shall be released immediately after receiving a court decision on changing the measure of restraint. Defendants shall be released immediately after a non-imprisonment sentence or acquittal judgment is made by court. Convicts shall be released immediately after the appellate court renders an acquittal or a judgment on replacing an imprisonment sentence with a non-imprisonment sentence.

(Paragraph 35 is restated as amended by Law HO-70-N dated 28.04.04)

36. Rank and file conscription servicemen released from the isolator shall be transferred to the detachment representative against the signature of the latter. If the arrival of the detachment representative is impossible due to transport and climate conditions, a rank and file conscription serviceman released from the isolator shall be given a statement specifying the dates and times of release

and return to the detachment. The detachment command shall be given notice thereof and shall supervise the serviceman's return to the detachment. Contract officers, contract non-commissioned officers, and rank and file contract servicemen shall return to the detachment on their own. A statement on the release date and grounds shall be issued to them.

(Paragraph 36 is restated as amended by Law HO-70-N dated 28.04.04)

37. Servicemen on whom the disciplinary penalty of isolation has been imposed and who were referred to treatment based on a medical opinion prior to the expiry of the isolation period shall return to the detachment after being treated. The commander (military commandant) who imposed the penalty shall determine whether or not the serviceman shall serve the unserved portion of the sentence.

(Paragraph 37 is restated as amended by Law HO-70-N dated 28.04.04)

**LETTER
TO THE CHIEF GUARD
ON RELEAS FROM THE GARRISON ISOLATOR**

Person held in the isolator _____
(military rank, name)

surname, patronymic)

shall be released _____
(time, day, month)

Basis _____

Governor of disciplinary isolator _____
(military rank, signature, surname)

[SEAL]

The chief guard, having received the release letter, shall release the isolated persons in the period specified therein and shall send them to the isolator governor. The latter shall record the release time in the log and list of names and return his personal items, cash, and documents to him against his signature, as well as the release letter with a note on release for presentation to the unit (detachment) commander. The receipt issued earlier for the items, cash, and documents shall be destroyed (Paragraph 13 of Appendix 14).

The chief guard shall present the release letter and the duty station bulletin to the command.

37. For the release of isolated person from the detachment isolator after the time period has expired, the detachment duty officer shall notify the unit commander thereof and send a letter to the chief guard on the release of the isolated person. The chief guard shall release him, and the letter shall be submitted to the command together with the duty station bulletin.

38. When releasing persons arrested and detained by the investigator, the isolator governor (detachment duty officer) shall issue them a statement signed by the garrison military commandant (detachment chief of staff) on the release time and bases.

FURNISHING OF THE DISCIPLINARY ISOLATOR

39. The garrison isolator shall have two units: a general unit for holding soldiers and sergeants, and a subdivision for non-commissioned officers, which may have a separate entrance.

In case the isolator is in the same building with the guard company, the movement of isolated in the area persons shall be prohibited.

40. The isolator general unit shall include:

- General cells for soldiers on whom the disciplinary penalty of isolation has been imposed;
- General cells for sergeants on whom the disciplinary penalty of isolation has been imposed;

- One-inmate cells;
- General cells and one-inmate cells for soldiers and sergeants arrested and detained by the investigator;
- General cells for convicted soldiers and sergeants; and
- Cells for temporarily isolated persons.

The cells shall contain lockable sleeping wood boards, tables, benches (chairs), and spitting bowls. General cells shall also have water tanks with taps.

41. The isolator unit for holding non-commissioned officers shall contain:

- General cells for persons on whom the disciplinary penalty of isolation has been imposed; and
- General cells and one-inmate cells for persons arrested and detained by the investigator and for convicted persons.

The cells shall contain couches (or foldable sleeping wood boards), tables, chairs, cupboards for personal items and toiletry, water containers filled with water, cups on stands, hangers, and spitting bowls.

42. The garrison isolator shall also contain:

- Rooms for the interrogation of persons arrested and detained by the investigator;
- A guard post;
- Office rooms for the isolator staff;
- A canteen;
- A warehouse equipped with hangers for storing the belongings of the isolated persons;
- A washroom; and
- Indoor or outdoor toilets.

43. The isolator governor's room shall contain a table, two to three chairs, a couch, a hanger, and a fireproof safe box attached to the floor or a wall or a metal box for keeping the documents, cash, and valuables accepted from the isolated persons.

44. The doors and windows in the cells of the isolated persons and the general areas (washroom and toilet) shall be equipped with security devices. Besides, the windows of such rooms shall have metal bars and, if necessary, a metal grid on the inside. Inspection holes shall be made on the cell doors. Lockable cupboards shall be placed in the corridors for toiletry, shoe-cleaning supplies, overcoats, and hats. The chief guard shall keep the cupboard keys.

45. Each isolator shall have a yard for the exercise of the isolated persons, which shall be encircled with a thick fence at least 2 meters high.

Annex 2

DAILY FOOD RATIONS OF MILITARY SERVICEMEN AT PEACETIME

#	Food	Daily Food Ration per Person (grams)
1.	Bread made of first-grade wheat flour	750
2.	First-grade wheat flour	10
3.	Cereals	120
4.	Macaroni	40
5.	Meat (bony)	175
6.	Fish (headless)	100
7.	Animal oil, margarine	20
8.	Vegetable oil	20
9.	Butter	20
10.	Melted cheese	20
11.	Cow milk	100
12.	Chicken eggs (per week)	4
13.	Sugar	70
14.	Salt	30
15.	Tea	1
16.	Bay leaf	0.1
17.	Pepper	0.3
18.	Vinegar	1
19.	Tomato paste	6
20.	Potatoes	630
21.	Vegetables	
	Cabbage	140
	Carrots	30
	Onions	50
	Beetroot	50
22.	Cider, fruit	28
23.	Tobacco, without filter (per day)	20
24.	Vitamin C	1