**REPLIES OF THE REPUBLIC OF ARMENIA
TO THE QUESTIONNAIRE ON THE RIGHT TO LIBERTY
AND SECURITY OF PERSONS WITH DISABILITIES**

***1. Please provide information in relation to the existence of legislation and policies that are intended to ensure and protect the right to liberty and security of persons with disabilities.***

According to Article 27 of RA Constitution, adopted on December 6th, 2015:

“Everyone shall have the right to personal liberty. No one may be deprived of personal liberty otherwise than in the following cases and as prescribed by law:

(1) the person has been sentenced by a competent court for committing a criminal offence;

(2) the person has failed to obey a legitimate court order;

(3) for the purpose of ensuring the fulfilment of a certain obligation prescribed by law;

(4) for the purpose of bringing a person before a competent authority where there exists a reasonable suspicion that the person has committed a criminal offence, or a justified necessity of preventing the committal of a criminal offence by the person or his or her fleeing after having done so;

(5) for the purpose of placing a minor under educational supervision or bringing him or her before a competent authority;

(6) for the purpose of preventing the spread of contagious diseases dangerous for the public, as well as the danger posed by persons with mental disorder, drug addicts and alcoholics;

(7) for the purpose of preventing the unauthorized entry of a person into the Republic of Armenia, or for deporting or extraditing a person to another state.

No one may be deprived of personal liberty merely on the ground of inability to fulfil civil-law obligations”.

***2. Please provide information on relevant legislation and policies related to:***

***2.1. Exercise of legal capacity;***

The Second Chapter of RA Constitution, adopted on 6th December, 2015, guarantees basic rights and freedoms of the human being and the citizen, including right to life, right to physical and mental integrity, prohibition of torture, inhuman or degrading treatment or punishment, personal liberty, prohibition of discrimination, legal equality of women and men, inviolability of the home, freedom and secrecy of communications, right to education, freedom of expression of opinion, right to apply to the human rights defender, freedom to choose employment and labour rights, right to judicial protection and the right to apply to international bodies for the protection of human rights and etc.

Article 20 of RA Civil Code defines the legal capacity of a citizen, according to which the ability to have civil rights and bear duties (civil legal capacity) is recognized in equal measure for all citizens. The legal capability of a citizen arises from the time of his birth and is terminated by death. Citizens may:

1) have property by right of ownership;

2) inherit and will property;

3) conduct entrepreneurial and any other activity not forbidden by statute;

4) create a legal person independently or jointly with other citizens and legal persons;

5) conclude transactions not contrary to statute and participate in obligations;

6) select a place of residence;

7) have the rights of the creator of works of science, literature, and art, inventions, and other results of intellectual activity protected by statute;

8) have other property and personal non-property rights.

Non-allowance of Deprivation or Limitation of the Legal Capability and Dispositive Capacity of a Citizen is enshrined in Article 25 of RA Civil Code, according to which.

1. A citizen may not be limited in legal capacity or dispositive capability other than in the cases and by the procedure established by statute.

2. Nonobservance of the conditions and procedure established by statute for the limitation of the dispositive capacity of citizens or of their right to conduct entrepreneurial or other activity shall entail the invalidity of the act of the state or other body that has established the respective limitation.

3. A full or partial renunciation by a citizen of legal capability or dispositive capacity, or other transactions directed at the limitation of legal capability or dispositive capacity, are void.

***2.3. involuntary admission to mental health services or other institutions;***

According to Article 25 of RA Constitution:

1. Everyone shall have the right to physical and mental integrity.

2. The right to physical and mental integrity may be restricted only by law, for the purpose of state security, preventing or disclosing crimes, protecting public order, health and morals or the basic rights and freedoms of others.

3. In the fields of medicine and biology, eugenic practices, making the human organs and tissues a source of financial gain, the reproductive cloning of a human being shall be particularly prohibited.

4. No one may be subjected to scientific, medical or other experiments without his or her freely and clearly expressed consent. The person shall be priorly informed about the potential consequences of such experiments.

The placement of a person in a psychiatric institution against his or her will is regulated by Article 22 of the Law of the Republic of Armenia "On psychiatric aid" (adopted on 25 May 2004) which provides that:

1. Persons suffering from mental disorder may be hospitalised without their consent or the consent of their legal representative following a mandatory examination by the psychiatric commission where:

(1) they present danger to themselves or others or

(2) the omission or termination of the treatment may aggravate the health condition of the patient.

2. In the above-mentioned cases, where the professional justification for hospitalisation by the psychiatric commission is approved, the head of the relevant psychiatric organisation shall — within 72 hours following the submission of a request on refusing or terminating the treatment by the person suffering from mental disorder — apply to the court to subject the person to involuntary (compulsory) inpatient treatment as prescribed by Chapter 30 of the Civil Procedure Code of the Republic of Armenia.

As of now, the Ministry of Health of the Republic of Armenia has developed the draft Law of the Republic of Armenia "On making amendments to the Law of the Republic of Armenia 'On psychiatric aid'" and submitted it to the Staff of the Government of the Republic of Armenia which prescribes the procedure for involuntary hospitalisation of a person suffering from mental disorder and the compulsory supervision or treatment of a person suffering from mental disorder. In particular, Article 20 of the mentioned Draft prescribes the aim, cases of involuntary hospitalisation of a person suffering from mental disorder, the actions to be taken in case of involuntary hospitalisation and the time limits thereof. Article 22 of the Draft prescribes the grounds for subjecting a person to compulsory outpatient supervision or treatment or inpatient treatment, the procedure for compulsory outpatient supervision or treatment, the frequency of visits of a person suffering from mental disorder to the psychiatric organisation for the purpose of compulsory outpatient supervision and treatment, the procedure for deciding on continuing or altering or terminating the application of medical coercive measures against the person.

**2.4. criteria to be found not criminally responsible (insanity defence, *inimputabilidad*, etc.);.**

According to Article 25 of RA Criminal Code:

1. The person who was in the state of insanity when committing a socially dangerous crime is not liable to criminal liability, i.e., the person could not understand the dangerous nature of one’s actions (inaction) or control one’s actions as a result of chronic mental illness, temporary mental disorder, mental retardation or other mental disease.

2. Forced medical measures can be imposed by the court with respect to the person who committed socially dangerous actions in an insane state.

3. Also not subject to punishment, is the person who committed a crime in the state of insanity, however, had fallen mentally ill before sentencing by the court, which deprived him of the capability of understanding the actual nature and significance of his actions (inaction) or controlling them. Forced medical measures can be imposed by the court with respect to such a person, and after recovery this person can be subjected to punishment.

The provisions concerning the limited sanity is enshrined in Article 26 of RA Criminal Code, according to which a sane person who, due to mental disorder, when committing the crime could not entirely understand the actual nature of one’s action (inaction) and its social danger, or control one’s actions, is subject to criminal liability. Limited sanity is taken into account as a mitigating circumstance when imposing the punishment and can become the ground for the enforcement of medical measures, parallel to the punishment.

**2.5. unfitness to stand trial or unfitness to plead;**

According to Article 7 of RA Judicial Code everyone has the right to judicial protection of his rights and freedoms. No one may be deprived of the right to have his case publicly examined by a competent, independent, and impartial court within a reasonable time, under equal conditions, with due respect for all requirements of fairness. Everyone has the right to exercise his right to judicial protection either through a representative or advocate, or personally.

**3. Please provide the most recently available data, disaggregated by sex and age if possible, on the number of:**

**3.2. cases where the state or an organisation has been appointed guardian;**

Pursuant to Article 37 of the Civil Code of the Republic of Armenia, the guardians and curators of citizens needing guardianship or curatorship and kept or placed in respective upbringing, medical institutions or in those for social protection of population or other similar institutions shall be deemed to be these institutions.

**3.1, 3.3, 3.4. persons under guardianship; institutions for persons with disabilities; persons with disabilities placed in institutions;**

There are 5 residential care homes operating under the Ministry of Labour and Social Affairs of the Republic of Armenia, 3 out of which are of general type (Yerevan Residential Care Home No 1, Nork Residential Care Home and Gyumri Residential Care Home) and 2 *—* of special type (specialised) (Vardenis Neuropsychiatric Residential Care Home and “Dzorak” Care Centre designed for persons with mental health problems, as well as 6 orphanages, 3 out of which are of general type (Children's Home in Yerevan, Gavar Orphanage, Vanadzor Orphanage) and 3 *—* of special type (specialised) (Mari Izmirlyan Orphanage, Kharberd Specialised Orphanage and Children's Home in Gyumri.

Information on the number of persons under care in general and special (specialised) institutions (according to gender, disability) is provided below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Institutions | Total number of persons under care | Including female  | Including persons with disabilities, including female  | Number of persons declared as lacking active legal capacity through judicial procedure |
| Residential care homes of general type | 640 | 342 | 285/ 140 | - |
| Orphanages of general type | 187 | 86 | - | - |
| Special (specialised) residential care homes | 570 | 290 | 560/280 | 253 |
| Special (specialised) orphanages | 453 | 213 | 453/213 | - |

At special (specialised) institutions for social protection of population, the care is provided to persons in need of such care, persons *—* in difficult life situations *—*having attained the age of 18 and persons suffering from a chronic psychiatric illness or a severe intellectual disability or persons with senile psychosis or severe sclerosis.

**3.7. involuntary admissions to mental health services or other social care facilities;**

In the course of 2016, 45 applications on subjecting a citizen to involuntary inpatient psychiatric treatment were lodged with the first instance courts of general jurisdiction of the Republic of Armenia through civil procedure, 39 out of which were accepted into proceedings and 6 were rejected. 33 out of 39 applications — having been accepted into proceedings — were granted, 5 were rejected, and the examination of 1 application was not completed as of 31 December 2016.

**3.9. beds for mental health inpatients in psychiatric hospitals and general hospitals;**

|  |  |  |  |
| --- | --- | --- | --- |
| N | /3.8/ Medical organisations providing inpatient psychiatric medical treatment and services | /3.9/ Number of beds | /3.7/ Placement of a person in a mental health institution against his or her will |
| Male | Female |
| 1. | "'Nubarashen' Psychiatric Centre" CJSC of the Ministry of Health of the Republic of Armenia | 350 | 91 | 10 |
| 2. | "'Nork' Psychiatric Centre" CJSC of the Ministry of Health of the Republic of Armenia | 125 | 7 | 2 |
| 3. | "'Avan' Mental Health Centre" CJSC of the Ministry of Health of the Republic of Armenia | 100 | 11 | 5 |
| 5. | "Sevan Psychiatric Hospital" CJSC of the Ministry of Health of the Republic of Armenia  | 420 | 5 | - |
| 6. | "Syunik Marz Neuropsychiatric Dispensary" CJSC | 80 | 10 | 4 |
| 7. | "Gyumiri Mental Health Centre of Shirak Marz of the Republic of Armenia" CJSC | 65 | 3 | 9 |
| 8. | "Psychoneurological Dispensary of Lori Marz of the Republic of Armenia" SCJSC | 35 | 6 | 1 |
| 9. | "Armash Health Centre after Academician A.Hayriyan" CJSC | 108 | - | - |
| 10. | "Stress Centre" of "ArtMed" Medical Rehabilitation Centre  | 45 | - | - |
| 11. | "Armenia Medical Centre" CJSC /psychosomatic department/ | 14 | - | - |
| 12. | "Centre for Fight against Tuberculosis" SNCO of the Ministry of Health of the Republic of Armenia /psychiatric ward/ | 30 | - | - |

**3.10. average days a person spends under involuntary admission at mental health facilities;**

The average number of days, the patient is kept at the mental health facility against his or her will, is not prescribed by any legal act, taking into account the fact that a patient receives medical treatment at a psychiatric institution against his or her will according to the court decision and the provision of medical treatment to the patient is terminated also according to the court decision — based on the opinion delivered by the psychiatric commission.

**3.12. persons who have been found not to be criminally responsible;**

In the course of 2016, the first instance courts of general jurisdiction of the Republic of Armenia decided on the application of medical coercive measures against 54 insane persons in 54 criminal cases.

According to the statistics gathered from the judicial acts having entered into legal force, in 2016, medical coercive measures were applied against 46 persons.