



**Commissioner for Human Rights (Ombudsman)  
of the Republic of Azerbaijan**

**R E P O R T**

**ON THE ACTIVITY**

**OF THE NATIONAL PREVENTIVE MECHANISM  
AGAINST TORTURE**

**(2014)**

**Baku - 2015**

The report covers the activities carried out by the National Preventive Mechanism in 2014, as well as the proposals and recommendations.

Statistical data and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment have been attached to the report.

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## FOREWORD

The designation of the Institute of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan as the establishment to function as the National Preventive Mechanism according to the OPCAT vested that institution with huge responsibilities. The fulfilment of the duties engendered by that decision, which was the continuation of the legal reforms and statehood process in the country, and served to the protection of human rights at higher level, has become one of the main directions of the activity of the Commissioner.

In 2014 the Commissioner ensured the organisation and improvement of her activity as an NPM at higher level, and our institution became one of the outstanding organisations among the relevant agencies of other countries.

The Commissioner's mutual relationships with state agencies, civil society representatives, mass media, international organizations, as well as foreign Ombudsmen have ensured the successful operation of the NPM from the outset and enabled the organization of constructive dialogues, necessary support, useful training sessions, and exchange of experiences.

During the term of its operation, the Azerbaijani NPM has established a distinctive reputation among the relevant specialized organizations and the general public due to its contributions to the improvement of the prevention of torture in the country from both the legislative and institutional perspectives.

The current report, which covers the activity carried out by the Azerbaijani NPM in 2014, comprises the measures undertaken for the improvement of the NPM's operation, cases revealed during preventive visits, presented recommendations and suggestions and the state of their implementation, as well as other activities undertaken by the NPM and proposals and recommendations derived from the conducted analyses.

We would highly appreciate any comments regarding the report.

**Professor Elmira SULEYMANOVA**

*Commissioner for Human Rights  
(Ombudsman) of the Republic of Azerbaijan*

## Definitions and Abbreviations Used in the Text

**AIDS** – Acquired immunodeficiency syndrome

**Commissioner** – Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan

**Constitutional Law** – Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan

**Convention** – Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

**CPD** – city police department

**CPO** – city police office

**CPT** – Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

**CC** – Criminal Code of the Republic of Azerbaijan

**Department** – Department for the Prevention of Torture of the Office of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan

**Deprivation of liberty** – any form of detention or imprisonment or the placement of a person in a public or private custodial setting, which that person is not permitted to leave at will by order of any judicial, administrative or other authority

**Detainee** – person deprived of his/her liberty

**DPD** – district police department

**DPO** – district police office

**DSAAP** – detention station for the administratively arrested persons

**EPC** – Execution of the Punishment Code of the Republic of Azerbaijan

**HIV** – Human immunodeficiency virus

**IDR** – Internal Disciplinary Rules of Penitentiary Institutions approved by Decision No. 7 of 29 December 2011 of the Plenary Board of the Ministry of Justice

**II** – Investigation Isolation of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan

**MD** – Ministry of Defence of the Republic of Azerbaijan

**ME** – Ministry of Education of the Republic of Azerbaijan

**MH** – Ministry of Health of the Republic of Azerbaijan

**MI** – Medical Institution of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan

**MIA** – Ministry of Internal Affairs of the Republic of Azerbaijan

**MJ** – Ministry of Justice of the Republic of Azerbaijan

**MLSPP** – Ministry of Labour and Social Protection of Population of the Republic of Azerbaijan

**MNS** – Ministry of National Security of the Republic of Azerbaijan

**MSEC** – Medical-Social Expertise Commission of the Ministry of Labour and Social Protection of Population of the Republic of Azerbaijan

**MSU** – medical sanitary unit

**NPG** – National Preventive Group for the Prevention of Torture under the Office of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan

**NPM** – national preventive mechanism provided by the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

**OMP** – Office of the Military Prosecutor of the Republic of Azerbaijan

**Office** – Office of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan

**OPCAT** – the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

**OSCE** – Organization for Security and Co-operation in Europe

**PCS** – penal colony settlement of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan

**PI** – penitentiary institution

**Place of detention** – any place where a person is detained or may be detained without permission to leave at will

**PS** – Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan

**PU** – police unit

**SMI** – Specialized Medical Institution of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan

**Subcommittee** – Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture

**TDP** – temporary detention place

**Torture** – torture and other cruel, inhuman or degrading treatment or punishment

**UN** – United Nations

## **CHAPTER 1.**

### **OPCAT AND THE MANDATE OF THE NPM**

#### **1.1. Requirements of the OPCAT**

The main objective of the OPCAT<sup>1</sup> is to establish a system of regular visits undertaken by independent international and national bodies to places of detention<sup>2</sup> in order to prevent torture. The OPCAT emphasizes the importance of a constructive dialogue, and specifies that not an approach based on reaction, but a preventive approach shall be applied to the regulated relations. The innovativeness of the OPCAT also appears in envisaging no new rights or restoration of infringed rights but the prevention of the violation of the existing standard - the right to not be subjected to torture.

The principle idea of the mentioned document is to establish, as an effective tool for the prevention of torture, a system of independent and regular visits to be carried out with the purpose of monitoring the detention conditions and treatment of persons kept in places of detention. In accordance with the OPCAT, international and national bodies with a torture prevention mandate – the Subcommittee and NPMs – are set up. The Subcommittee established at the international level, being a subcommittee of the UN Committee against Torture, is a new generation treaty body of the UN.

Pursuant to Article 17 of the OPCAT, each State Party shall maintain, designate or establish, at the latest one year after its entry into force or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. The NPM's mandate consists of at the very least the following:

- to regularly examine the treatment of the persons deprived of their liberty in places of detention;
- to make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture, taking into consideration the relevant norms of the United Nations;

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<sup>1</sup> Which was adopted with the UN General Assembly Resolution No 57/199 of 18 December 2002, and entered into force after 20 States ratified it on 22 June 2006.

<sup>2</sup> Pursuant to Para 2 of Article 4 of the OPCAT, for the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.

- to submit proposals and observations concerning existing and draft legislation.<sup>3</sup>

In order to enable the national preventive mechanisms to fulfil their mandate, the State Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.<sup>4</sup>

The OPCAT also recognizes the following rights for the NPMs:

- Access to all information concerning the number of persons deprived of their liberty in places of detention, the treatment of those persons, their condition of detention, the number of places of detention and their location;

- Access to all places of detention;

- The opportunity to have private interviews with the persons deprived of their liberty without witnesses, as well as with any other person who may supply relevant information;

- The liberty to choose the places they want to visit and the persons they want to interview;

- The right to have contacts with the Subcommittee on Prevention, to send information and to meet with its representatives.<sup>5</sup>

## **1.2. National legislation**

The OPCAT was acceded by the Republic of Azerbaijan on 15 September 2005 and ratified by the Law of 2 December 2008.<sup>6</sup> The OPCAT entered into force in the Republic of Azerbaijan by the publication of the aforementioned law on 15 January 2009. On the same date the President of the Republic of Azerbaijan issued a Decree designating the Commissioner as the institution to perform the functions of the NPM according to the OPCAT.<sup>7</sup>

The Commissioner's special attention to the prevention of and combat against torture, organization of preventive measures, as well as awareness raising activities has served as the foundation for the NPM's work, and this institute's reputation of being independent, impartial and an "A" category national human rights institute in accordance with the "Paris Principles" was one of the factors grounding its designation as the NPM.

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<sup>3</sup>OPCAT, Article 19

<sup>4</sup>OPCAT, Article 18(1)

<sup>5</sup>OPCAT, Article 20

<sup>6</sup>The Law of the Republic of Azerbaijan on Approval of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (02.12.2008, № 724-IIIQD)

<sup>7</sup> The Law of the Republic of Azerbaijan on Ensuring the Implementation of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (13.01.2009, № 112)



The new and quite serious responsibilities of the Commissioner required more efficient and higher quality activities which resulted in the expansion of her mandate, as well as her staff's competence.

With the additions and amendments made to the Constitutional Law<sup>8</sup> the Commissioner's powers, as well as her independence have been adjusted to the level of the authority of the NPM as provided for by the OPCAT. Also in order to ensure the Commissioner's activities as the NPM, based on the principles of transparency, an NPG has been created and the obligations, rights and guarantees of the members of the NPG have been enacted.

According to the Constitutional Law, the Commissioner and the National Preventive Group, in fulfilment their duties as the NPM, have the right to have access, at anytime, without hindrance and prior notification, to police stations, temporary detention facilities, investigation isolators, penitentiary institutions, military detention places, psychiatric institutions and other places where detainees are not permitted to leave at will, meet and interview detained persons, as well as any other persons who may provide relevant information, in private or when deemed necessary with participation of a specialist or interpreter; get acquainted with and obtain copies of all documents confirming the lawfulness of detention, as well as relating to treatment of detainees or detention conditions; draw up acts, and minutes to document the flow and results of undertaken actions.<sup>9</sup> The Commissioner's right to make recommendations to relevant authorities and receive responses to those recommendations within the specified time limit has also been stipulated in the aforementioned law.<sup>10</sup>

It should be noted that in order to ensure the NPM's smooth operation, other legislative acts have been amended too. Thus, the provisions specifying the Commissioner's and NPG's aforementioned powers have been incorporated into the relevant normative legal acts.<sup>11</sup>

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<sup>8</sup> The Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, (24.06.2011, № 163-IVKQD)

<sup>9</sup>Constitutional Law, Article 12.2.1; 18-1.2.1

<sup>10</sup>Constitutional Law, Article 12.2.1

<sup>11</sup> The Law of the Republic of Azerbaijan on Making Amendments to the Execution Punishment Code (20.04.2012, № 324-IVQD); the Law of the Republic of Azerbaijan on Making amendments to the Law on Psychiatric Care (20.04.2012, № 325-IVQD); The Law on Making Amendments to Annex 4 of the Regulations of the Garrisons and Guard Services of the Armed Forces of the Republic of Azerbaijan which was confirmed by Law No 886 of 23 September 1994. (20.04. 2012); № 326-IVQD); The Decision of the Cabinet of Ministers of the Republic of Azerbaijan on Making Amendments to "The Sample Regulations of Open and Closed Special Correctional Institutions approved by Decision No 65 of the Cabinet of Ministers dated 13 May 2003" (04.07.2012, № 148); The Decision of the Plenary Board of the Ministry of Justice of the Republic of Azerbaijan on "Making Amendments to the Internal Disciplinary Rules of Penitentiary Institutions approved by Decision No. 7 of 29 December 2011 of the Plenary Board of the Ministry of Justice" (13.07.2012, № 3-N); The Law of the Republic of Azerbaijan on the rights

It should also be noted that the suggestions, applications and complaints the inmates address to the NPG are not subject to censorship; and are submitted within one day.<sup>12</sup> Such applications of detainees who do not have sufficient financial means are submitted at the expense of the relevant PI.<sup>13</sup>

### **1.3.Directions of the activity of the NPM**

The Azerbaijani NPM performs its activities in the following four directions:

- Preventive visits – regular, scheduled or ad-hoc, unannounced visits to places of detention;
- Legal analysis – the theoretical and practical analysis of the performed activities, as well as information collected during the course of such activities, relevant proposals and recommendations received, and effective or draft, and compilation of conclusions and preparation of corresponding proposals;
- Legal education work – with the purpose of promoting the prevention of torture, the organization of legal awareness work for the staff of the Office, members of the NPG, personnel of detention places, as well as persons detained in those places, students of relevant educational institutions and academies, and preparation and distribution of related manuals;
- Public relations and international cooperation – the arrangement of exchange of information with local, regional and international organizations and foreign NPMs, mutual participation at events and organization of joint events, and the dissemination of information on the NPM’s activity in the mass media.

Along with the abovementioned, it should be noted that the NPM’s activity has been interlinked with the Commissioner’s mandate to receive applications. Thus, information collected during the examination of the applications received by the Commissioner and the special weight of complaints by each agency and entity were used as a driving force in the planning of preventive visits.

The results of the Commissioner’s activities in the mentioned spheres, achievements reached, and proposals and recommendations made are reflected in the Commissioner’s special reports. The reports of the previous years were translated into English and published in both the Azerbaijani and English languages. Up to two hundred proposals and recommendations aimed at improving the current legislation, as well as institutional issues have been enumerated in the reports submitted so far.

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and freedoms of individuals kept in detention facilities (22.05.2012, № 352-IVQ); The Decision of the Ministry of Internal Affairs on “The Rules for Safeguarding and Escorting Persons Detained in Temporary Detention Places of Police Bodies” (14.01.2013, № Q1-001-13)

<sup>12</sup>EPC, Article 83.5; IDR, para 28.6

<sup>13</sup>IDR, para 28.11

## CHAPTER 2.

### ACTIVITY OF THE NPM AND PREVENTIVE VISITS

#### 2.1. Organization of preventive visits

As is commonly known, to conduct regular preventive visits to places where people are deprived of their liberty is the key direction of the NPM's activity. Defining its priorities on performing duties the Azerbaijani NPM also considers the OPCAT objectives.<sup>14</sup> Then visits are conducted in the establishments, the list of which is drawn up based on the information submitted by the relevant bodies about the places of detention in their jurisdiction in response to the motions sent to them. For reasons of necessity, these lists are renewed at the end of year verifying their accuracy with the relevant bodies.

In 2014 the head of Public Union "Legal World, Legal Promotion", expert on child rights Nazir Guliyev and the executive director of the "Prison Watch" Public Union Elchin Salmanov were involved in the visits and preparing reports of the NPG as experts in this field. The physician member of the NPG attended all the visits of the NPG.

All preventive visits undertaken by the NPG are conducted without making prior notification and such visits can be divided into two groups: *scheduled visits* and *ad-hoc visits*.

##### 2.1.1. Scheduled visits

Scheduled visits are conducted according to the annual schedule approved by the Commissioner. At the end of each year a draft of the annual schedule for the next year is discussed at the meeting attended by the NPG members and an accepted schedule is submitted to the Commissioner for approval. The non-disclosure of the schedule is vital in terms of the effectiveness of the visits. Thus its confidentiality is ensured by the NPG.

The decision upon the sequence of this or another establishment included in the visit, as well as on revisiting is made by taking into account such factors as the specifications of the given establishment, prior cases reported on the detention conditions and treatment in the mentioned establishment in previous years, its location, as well as the information submitted to the NPG as a result of an analysis of the complaints addressed to the Commissioner.

The time allocated for a visit varies depending on the establishment's size and specifications, the number of persons kept there, as well as the number of NPG members involved in that particular visit. The visits mainly last up to three workdays.

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<sup>14</sup>OPCAT, Article 20

### **2.1.2. Ad-hoc visits**

The ad-hoc visits are mainly undertaken for checking the state of the implementation of the recommendations given at previous visits, preventing prosecution against the persons who have communicated some information to the NPM in this or another form, as well as investigating information given by interviewed detainees about the establishments they were previously held at and the information submitted to the NPG from the analysis of complaints addressed to the Commissioner, checking on the spot the information reported by mass media and that the NPG is interested in, and also on the Commissioner's own initiative.

### **2.2. Conducting visits**

Ensuring the effectiveness of visits requires encompassing the three main stages. Thus the visits of the Azerbaijani NPM are conducted through the following stages:

- Preparation for the visit;
- Conducting the visit;
- Post-visit activities.

*Preparation for the visit* usually lasts up to two workdays and covers collecting necessary information, defining the purpose of the visit and establishment of a visiting group.

*During the collection of necessary information*, the information obtained at the previous visits, as well as the information received from other sources, complaints addressed to the Commissioner, as well as the information obtained from mass media are analysed, and the legal framework regulating the operation of the establishment, and the relevant international standards are reviewed.

*The purposes of the visit* are defined encompassing such issues as a general assessment of the condition and treatment, investigation of certain issues on condition and treatment (for example, execution of disciplinary punishments, quality of medical treatment), checking the cases revealed during the previous visits, the state of implementation of presented recommendations and suggestions, defining the issues to be paid special attention and other activities.

*During the establishment of a visiting group* the composition of the group is formed considering number, profession, gender etc. The questionnaires for visit and interviews, templates for taking minutes of conversations with convicts, surveys etc. are prepared.

*Conduction of the visit* encompasses a number of stages:

First, there is held a preliminary talk with the management of the establishment. During such a conversation the group members introduce

themselves and provide information on the purpose of the visit, and later get general information about the establishment.

After the preliminary talk with the management, the buildings of the establishment are visited. During this the material condition of the establishment – the size, capacity and state of cells and rooms, actual placement, light, ventilation, furniture supply, personal hygiene and sanitary conditions, and food – is assessed, along with an investigation of medical treatment etc.

After that, the documents are reviewed and detainees are individually and confidentially interviewed (such talks can be held in groups as well, it is decided by the NPG itself).

Talks with the staff of the establishment are also one of the necessary issues of a visit. In order to assess the treatment of persons responsible for the detainees, the NPG members organise interviews with the personnel. In some cases special surveys are used for prison staff together with the mentioned talks.

At the end of the visit there is held a final talk with the management of the establishment and information provided on the findings of the NPG. By providing recommendations their attention is driven to the issues that can possibly be solved immediately. At the same time it is informed that the senior management of this body will be notified regarding the findings.

From the point of view of the Azerbaijani NPM, the *post-visit activities stage* is more important than the visit itself. As the objective of the NPM is not only conducting visits to places of deprivation of liberty, visits are a beginning of the process aimed at the improvement of the treatment of and conditions for the people deprived of their liberty.

Thus a report on the findings of the visit is prepared after undertaking the visit and recommendations to ameliorate the treatment and conditions are prepared and submitted to the relevant ministries.

Usually, when the NPG deems it necessary, soon after the visit in order to check if the provided recommendations are implemented, follow-up visit day is scheduled and undertaken.

In 2014, the NPG conducted 365 visits, out of which 267 were scheduled and 98 were ad-hoc visits. Out of the mentioned visits, 219 visits were carried out on the establishments of the MIA, 112 to the establishments of the MJ, 3 to the establishments of the MNS, 4 to the establishments of the MD, 2 to the establishments of the SMS, 4 to the establishments of the MH, 10 to the establishments of the MLSPP, 8 to the establishments of the ME, and 3 to the establishments of local executive authorities.<sup>15</sup>

During the visits, private talks were conducted with 237 detainees kept in temporary detention places, 1030 detainees kept in investigation isolators and

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<sup>15</sup> See: Appendix 1

penitentiary institutions, and up to 250 persons kept in other establishments, as well as up to 300 staff members.

As in previous years, in order to eliminate the deficiencies and shortcomings revealed during the 2014 visits and to improve detention conditions relevant proposals and recommendations were submitted to the administrations of the establishments concerned and to the relevant ministries. The Commissioner was informed about the appropriate measures taken by the state bodies with regard to each recommendation.

### ***2.2.1. Establishments of the Ministry of Internal Affairs***

The measures undertaken for improving current detention conditions in compliance with the modern standards in the temporary detention places of the internal affairs bodies, and for more efficient protection of human rights in these facilities have been continued from the previous year.

As each year, the measures were conducted for modernization of the infrastructure, renewing the material-technical basis, improving the material conditions in the TDPs. Alongside with these, relevant measures were undertaken for further improving the treatment of detained persons, elimination of revealed delinquencies and reasons that caused them, the control over the TDPs was strengthened.

In order to improve the detention conditions new TDPs have been constructed and given to exploitation in 36 police bodies. Nowadays, the construction of TDPs in Binagadi, Pirallahi, Mingachevir, Yevlakh, Yardimli, Gedebey, Beylagan, Goranboy, Naftalan city and district police bodies.

In 2014, 219 scheduled and ad-hoc visits were undertaken to the establishments under the Ministry of Internal Affairs (MIA) by the National Preventive Group. During these visits private conversations were held with 237 detainees, their detention conditions were evaluated, the state of their subjection or not to ill-treatment during detention and/or arrest were investigated.

The possibility of subjection to ill-treatment of persons brought to the police bodies in this or other manner was also a matter of evaluation.

The visit was carried out in the ***Research Center of the Struggle Against Illegal Migration Division***. The aim of the visit was learning the situation with implementation of the recommendations on detention conditions put forward during the previous visits. At the same time, it was found out that despite functioning of the Research Center of the Struggle against Illegal Migration Division since April 2013, no detainees were there.

The visit was paid to the ***TDP of the Biladjary Line Police Office of Head Police Department in Transport***. The aim of the visit was investigation of detention conditions, treatment and appropriate documentation in the TDP.

Despite absence of detainees in the TDP, it was found out that the material conditions of the TDP are in compliance with modern standards. The administration of the institution was given recommendations on several shortcomings in the documentation that were possible to be eliminated on site.

During several visits in the Detention Station for the Administratively Arrested Persons detention conditions, treatment of detainees and the situation with implementation of forwarded recommendations were investigated. The NPG positively evaluated the capital repairing works carried out in the institution.

During the visits the meetings were held with persons detained in the institution, their detention conditions, including nutrition provision, behaviour the staff with regard the detainees were the subjects of investigation. The received persons were explained their rights and the purposes of the NPG. Detainees expressed no complaints on the abovementioned cases, also informed that they are in contact with their lawyers and family members and provided with daily press.

Within the frames of visit the NPG members jointly with responsible official of MIA and administration of the DSAAP held discussions on improving of detention conditions in this institution and of the concerning legislation in this regard, several recommendations were mutually sounded.

The Commissioner sent appeal to the Minister of Internal Affairs regarding the results of this visit and several proposals were put forward in this appeal in connection with further improving detention conditions in DSAAP and of concerning legislation:

1. Working out of new Statute until adoption of a new law or making amendments to existing Statute and its submitting to the Commissioner considering that the analysis of the Statute affirmed by the Order No.480 dated October 30, 2010, revealed that the rules of detention of administratively arrested persons do not meet international standards;

2. Construction of regional detention places for administratively arrested persons with the purpose to eliminate difficulties and density arising in detention of administratively arrested persons in temporary detention places during the NPG visits;

3. Installation of night lighting in cells taking into account present repairing works carried out in the Detention Station for Administratively Arrested Persons;

4. Creation of special cells for separate detention of persons in a severe psychological state.

In response to these recommendations it was noted that capital reconstruction of the DSAAP had started and creation of special cells for separate detention of persons in severe psychological state had been considered. The lighting of cells of the station were brought in compliance with article 6.30 of the "Provision Norms in specially equipped buildings of police bodies of the Republic of Azerbaijan" affirmed by the Decision No.130 of the Cabinet of Ministers of the

Republic of Azerbaijan dated July 30, 2001, the mentioned shortcoming in this sphere were eliminated as well.

The Minister of Internal Affairs assured the Commissioner that construction of detention stations for administratively arrested persons in particular regions of the republic would be considered in future if necessary.

With the purpose to investigate the situation with implementation of the recommendations forwarded during the previous visits, repeated short – term visit was paid to the same institution, all detained persons were received, the documents confirming the legality of detention were checked-up and the treatment and material conditions were re-evaluated.

The NPG members founded out those previously forwarded recommendations have been implemented. Thus, such cases as capital repairing of the institution and its bringing into conformity with modern standards, increasing the number of cells, sanitarian-hygienic and bath rooms, installation of TV sets in all cells, completely replacing the ventilation system in cells, putting into exploitation of meeting places of detainees with their folks were evaluated positively.

The visits were conducted to ***Sumgayit CPD TDP, PS No.1, No.2, No.3 this Department***. The purpose of visits was learning the treatment of detainees, detention conditions and the situation with implementation of recommendations given during previous visits.

During the conducted visits the detention conditions of detainees in the abovementioned institution were investigated, their personal files and registration book of detainees were reviewed.

Despite the TDP meet the standards, several shortcomings were revealed. Thus, during the visit to cells it was determined that the detainees were not provided with pillow and mattress coverings and that smoker detainee was kept together with non-smoker detainee in the cell No.5.

During the visit to the ***PS No.1 of Sumgayit CPD*** it was found out that two persons were kept under the control of police sergeant in the room considered for gatherings. During the conversation with the mentioned persons they noted that they had quarrelled and due to this were brought to the police station and that it had been several hours since they were kept there.

It was also found out that in the room of operational police officer of the station there was a person suspected in theft and that he was brought to the station in morning hours. No notes were revealed in the “Registration Book of persons brought to the police bodies” regarding the abovementioned three persons. As a result of general review of the book it was known that the notes on 24 persons were incomplete.

It was also found out that appropriate notes in the “Registration Book of persons brought to the police bodies” of the ***PS No.3 of Sumgayit CPD*** were incomplete as well.



The Commissioner urged to the Ministry of Internal Affairs regarding the abovementioned facts.

In the response from the MIA it became aware that temporary detention places of police bodies of the Republic were equipped with beddings (pillow, mattress, blankets, bed sheets, pillow slips) in compliance with concerning decision of the Cabinet of Ministers of the Republic of Azerbaijan, and each detained or arrested person placed in the cell was provided with these belongings. Preparation of meals for detainees is being realized according to the agreement between relevant police body and corresponding public catering facilities and each person is provided with hot meal, bread, tea and other considered food stuffs in compliance with daily norms. The meals for persons detained in the temporary detention places of police departments functioning in the territory of Baku city are prepared in the canteen of the Baku City Police Department.

Additionally, for wash of beddings in the temporary detention places appropriate agreement was signed with “Beyaz Chamashir” LLC, financial means were allocated for provision of detention places with household goods.

Elimination of shortcomings and deficiencies revealed during conducted visits was provided, for allowing deficiencies in provision of rights of persons detained in temporary detention places the head of the Temporary Detention Place of Sumgayit City Police Department, for failing in registration of brought persons in compliance with demands of the corresponding normative legal acts of the Ministry of Internal Affairs the responsible officers on duty of Police stations No.1 and No.3 of Sumgayit CPD, police captains M. Pashayev and P. Dunyamaliyev, police major N. Hajiyev were brought to disciplinary responsibility.

This should be noted that the NPG members conducted repeated visits to Sumgayit City Police Department TDP, Police Stations No.1 and No.3 of this Department, learned detention conditions, treatment of detainees and the situation with implementation of recommendations given during previous visits.

During the conversation held with persons detained in TDP no complaints were received from them, personal files and registration books were reviewed, no deficiencies were observed.

During the visit to Police Stations No.1 and No.3 no detained persons were there.

It was observed that many of the recommendation given during previous visits to these institutions have been implemented, including improvement of detention conditions and documentation work in Sumgayit City DPO TDP and the abovementioned police stations.

During the visits paid to *Nizami DPO TDP and PS No.23, 24 and 25* the NPG members learned the detention conditions in these institutions, reviewed personal files and registration book of detainees. The Commissioner made appeal to the Ministry of Internal Affairs regarding failure in moving of several persons

detained in the TDP to the investigation isolators, as well as several deficiencies revealed in the documentation. Thus, during the review of the “Registration and record book of persons detained in the TDP” it was found out that several persons were failed to be send on time to investigation isolator with violation of the Article 5 of the Law of the Republic of Azerbaijan “On Provision of Rights and Freedoms of Persons Detained in the Places of Deprivation of Liberty”, the persons detained in the TDP were provided with the same meal with no changes in menu during two days, and no notes were made at all by heads of district police offices in the registration book of persons carrying out monitoring in the TDP.

In the letter of response it was informed that elimination of deficiencies and shortcomings detected by NPG during visits was ensured, for allowing deficiencies in provision of rights of persons detained in temporary detention places the head of the Nizami DPO TDP was brought to disciplinary responsibility.

NPG paid repeated visit to Nizami District Police Office Temporary Detention Place and reviewed the registration book, investigated detention conditions, treatment of detainees, the situation with implementation of recommendations given during the previous visits.

No deficiencies were detected during the repeated visit, as well as it was found out that the recommendations given during the previous visits to this institution have been fully implemented.

Despite no complaints were received regarding conditions and treatment during the visits conducted in the *Sabunchu DPO TDP and PS No.12, No.14, No.15* of this Office, several violations were revealed in documentation. Thus, during the review to the “Registration Book of Persons Brought to the Police Bodies” in both PS No.12 and No.15, it was found out that concerning information was not made in columns of bringing, sending or release of several persons brought to the station. As a result it became impossible to get information on for how long their freedoms were restricted. Additionally it was found out that there was not an announcement “Ombudsman Hot-line Service” in the Police Station No.12.

The officer on duty in the PS No.14 refused to present “Registration Book of Persons Brought to the Police Bodies” to the NPG members, and motivated this with instruction of the head of the Police Station not to show the book to anyone without his permission.

The Commissioner urged to the Minister of Internal Affairs in this regard.

From the letter of response it was found out that when the NPG members were in the Sabunchu DPO PS No.14, the officer on duty I. Novruzov violated the demands of legislation failing to present the “Registration Book of Persons Brought to the Police Bodies”, alongside with this, absence of announcement “Ombudsman Hot-line Service” before the duty unit of the Police Station No.12, observance of keeping empty of several columns in the “Registration Book of

Persons Brought to the Police Bodies” while reviewing these books in the PS No.12, 14 and 15 were confirmed as well. As a result of service investigation process deficiencies detected by the NPG members while reviewing the “Registration Book of Persons Brought to the Police Bodies” in the duty units of territorial police bodies of Sabunchu DPO were eliminated, installation of the announcement “Ombudsman Hot-line Service” before the duty unit of the Police Station No.12 was ensured.

For allowing the abovementioned deficiencies the officer on duty of the Sabunchu DPO PS No.14, police captain I. Novruzov was brought to disciplinary responsibility, the heads of the PS No.12, 14 and 15 were given stern warning for not repeating of analogical cases, the territorial police organs of the capital were sent concerning instruction.

During two visits conducted in the *Binagadi DPO TDP* last year, the detention conditions, treatment and documents confirming the legality of detention were investigated. During private conversations with detainees no complaints on detention conditions and treatment were received, as well as the registration book was reviewed, no deficiencies were detected.

During the conducted investigation it was observed that some of the cells here were already in unusable condition, the wooden floors were rot and others.

Besides this, during the visit to the PS No.6 of that Office detention conditions, treatment and documentation issues were investigated. During the visit there was no detained person in the police station. The registration book was reviewed, no deficiencies were observed.

Several visits were conducted to *TDPs of Narimanov DPO and Nasimi DPO*. During these visits the detention conditions in TDP were investigated, registration books were reviewed, private conversations were held with detainees and they made no complaints on detention conditions and treatment.

The visit was carried out in *Garadagh DPO PS No.11 and No.38*, no detained persons were in the police stations in the time of visit, and no deficiencies were detected.

Thus, it was found out that the PS No.38 was moved to the new building meeting the modern standards and two temporary detention rooms considered for four persons in total were built there.

The visit was conducted in *Surakhani DPO TDP* newly given into exploitation, *PS No.32 and 33 of this DPO*. As in other institutions, the purpose was investigation of detention conditions, treatment of detained persons and the situation with implementation of recommendation given during the previously conducted visits to the Police Stations.

Considering that the institution constructed in compliance with modern standards was newly put into operation, the NPG members held short legal enlightening training for the staff of this institution with the purpose of ensuring proper appropriation by new staff members of existing standards on detention

conditions, treatment of detainees, provision of rights and freedoms of detained persons.

The administration of the institution was given concerning recommendations on further improvement of detention conditions.

In order to investigate detention conditions, treatment of detainees, appropriate documentation, the situation with implementation of recommendations given during previous visits the following visits were carried out to the *Khatai DPO TDP, PS No.34, 35, 36 and No.37* of this Office.

During the visit the Group members learned the detention conditions in the abovementioned institutions, reviewed personal files and registration book of detained persons. Received detainees made no complaints with regard detention conditions or the treatment by the staff of the institution towards them. It was found out that the mentioned TDP meet the standards and the detention conditions were generally evaluated positively.

During the visit conducted in the *Khazar DPO TDP* detention conditions, treatment and documents confirming the legality of detentions were observed; administratively arrested persons with whom the individual conversations were held made no complaints on detention conditions and treatment.

NPG members also reviewed the registration book; the administration of the institution was given concerning recommendation with regard the detected minor deficiencies.

During the short visit carried out to the *Khazar DPO PS No.1 and No.2*, no detained persons were there, the unit on duty was given concerning recommendations regarding minor deficiencies revealed in the registration book.

The visits were paid to *Sheki CPD, Zaqatala and Balaken DPD TDPs*. During the visits the violations were found out especially in Sheki CPD TDP.

Thus, it was revealed that six out of existing eleven cells in temporary detention place were per person. During the conversation with the TDP Head and the staff of the institution it was found out that administratively arrested persons were kept in these single cells, and they were unaware of existence of concerning procedural rules in this regard.

According to international standards groundless keeping of person in single cells can be evaluated as his/her additional punishment<sup>16</sup>.

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<sup>16</sup> The Article 7 of the UN General Assembly Resolution 45/111 On “Basic Principles for the Treatment of Prisoners” adopted on December 14, 1990, states that the efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged. Besides this, according to the Article 96 of the European Prison Rules, as far as possible untried prisoners shall be given the option of accommodation in single cells, unless they may benefit from sharing accommodation with other untried prisoners or unless a court has made a specific order on how a specific untried prisoner should be accommodated.

Paragraph 2.32 of the “Internal Disciplinary Rules of Temporary Detention Places” approved by the Decision No.63 of the Cabinet of Ministers of the Republic of Azerbaijan dated

It was observed that in all three TDPs there were no boards on rights and duties of accused and suspected persons in places of detention, the lights were not switched off during nighttime, detainees were undergoing medical examination with participation of police officers, the persons detained in the TDP didn't have opportunity to have telephone conversation with persons of their legal interest, the persons detained in TDP were not provided with hygienic means (soap, toothpaste, toothbrush, pads for women), with cloth according to season.

In the appeal to the MIA in connection with the results of visits the NPG noted recommendations in the direction of elimination of problems alongside with problems and also mentioned the relevant international experience. The letter of response it was noted that appropriate conditions were created for persons brought to the TDP in the unit on duty or in the service room of the head of the TDP for informing about this of their close relatives, and necessary measures were carried out for conduction of intercity and mobile phone conversations of the mentioned persons.

Additionally, it is mentioned that the medical examination of detained or arrested persons or rendering of medical aid to them is carried out by doctor in the "Medical room" of the temporary detention place, this time for the safety purposes police officer renders service nearby the room, but does not intervene to the medical examination process in any manner.

Installation of appropriate information on rights and duties of detained persons in TDP cells of Balaken, Zaqatala, Sheki city, district police departments was ensured, necessary conditions were created for receiving of parcels, concerning work was carried out in the direction of elimination of other shortcomings and deficiencies revealed during visit, as well as necessary measures were undertaken for equipment of temporary detention places of police organs of cities and regions of the republic in compliance with norms of material – housing norms as provide by internal discipline rules.

During the visit to *Salyan and Bilasuvar DPD TDPs* it was found out that in the rooms considered for temporarily detained persons adjoining with unit on duty of Salyan DPD there were not ventilation, seat and electrical lightning in one of them. Relevant recommendations and comments were given to responsible officer on duty.

The visit to the TDP of PS was continued, each of detained person was received in private. During the visit the situation with ensuring of detention regime of suspected and accused persons, their escort, grounds for their escort, the grounds and rules for detention of suspected and accused persons in the TDP,

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February 26, 2014, states that detained or arrested persons can be accommodated in a single cells: in the case when detained or arrested persons urge in written to be placed in single cameras; in order to prevent threat to life or health of detained or arrested persons; if its is impossible to implement separate detention requirements otherwise.

rights and duties of persons detained in the TDP, realization of rights of detainees, rules of meetings with lawyers, provision with walkings, realization of religious ceremonies by detainees, their housing, medical and sanitarian – epidemiological provision, grounds and rules for releasing from TDP were investigated. During the conversation with detainees their questions were answered, the information on appropriate articles of the Constitutional Law of the Republic of Azerbaijan On the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, National Preventive Mechanism.

The detainees mentioned that they had no complaints on detention conditions, treatment by the head and staff of the institution towards them.

During the visit it was found out that the room for interrogations and cells in TDP were weak. There were one seat in each cell and there was not a board with rules of daily regime in cells. Concerning recommendations were given to acting head of TDP.

The recommendations addressed to the MIA regarding the results of visit were reviewed and it was noted that appropriate measures were undertaken for installation of seats in TDPs of Salyan DPD cells and the rooms of unit on duty for interrogation of persons detained or brought there, amplification of lightening, provision with new bedding equipments in compliance with relevant norms, as well as hanging of information on rights of detained or arrested persons considered by the Law of the Republic of Azerbaijan on “Ensuring the rights and freedoms of persons held in the Places of Detention” was ensured.

Additionally it was found out that construction of new administrative building of Salyan DPD and TDP was considered in the draft of state investment program.

During the visit to the Bilasuvar DPD TDP private conversations were conducted with each of detainee, the documents confirming the legality of their detention were reviewed, their rights were explained to them, compliance of detention conditions to relevant norms, provisions with lawyers, subjection or not to any pressure while detention, normal lightening and ventilation of cells in connection with detention conditions, equipment for leisure in the cells, following to hygienic norms, daily serving of hot meal and gave concerning recommendations to the TDP staff.

During the conversation with detainees there were no complaints regarding the ill-treatment in the TDP.

During the visit conducted in the Absheron DPO TDP treatment of detained persons, detention conditions, the situation with implementation of recommendations given during the previous visits were investigated; personal files of detainees and registration book were reviewed.

Received persons made no complaints on treatment by staff of the institution and on detention conditions. The mentioned TDP meet the standards.

The administration of the visited institution was given recommendation in connection with further improvement of detention conditions.

During the visit paid to the Temporary Detention Place of Goranboy DPD private conversations were held with detainees and they expressed no complaints on detention conditions or treatment by police officers; however it was found out that the TDP is in need of capital repair, sanitarian units in cells are not fully surrounded by partition and there is no separating door of the sanitarian unit.

With regard these deficiencies the Commissioner urged to the Minister of Internal Affairs and in the response letter it was noted that construction of new building for temporary detention place of Goranboy DPD of the MIA within a current year was planned and concerning services were given tasks on beginning the constructional works of the object and its putting into exploitation in a short period of time.

During the visits to Goygol and Gazakh DPDs TDPs detention conditions, treatment of detainees, the situation with implementation of recommendations were investigated, it was found out that the TDPs met standards. During the visit to Goygol DPD TDP there were no detainees there, the detainees in the Gazakh DPD TDP made no complaints on detention conditions and treatment by staff members of the institution towards them. Their personal files and registration book of detained persons were reviewed, no shortcomings were detected. The administrations of those institutions were given concerning recommendations for further development of detention conditions.

There was made appeal to the Ministry of Internal Affairs regarding the violations detected in the TDPs of Astara, Lerik, Samukh, Shamakhi, Gabala and Khachmaz DPDs. In the response letter it was noted that police Major R. Abdullayev and police senior lieutenant S. Mammadov were brought to disciplinary responsibility for failing to completely and fully comply documents of Samukh TDP, to exercise releasing regime in compliance with concerning instructions, seminar-trainings were organized for staff of public security services, units on duty and temporary detention places of police bodies of the cities and districts of the republic with the aim of further bettering application in their practical work of duties following from the provisions of the Law of the Republic of Azerbaijan on "Ensuring The Rights And Freedoms of Persons Held in Detention Places" and related normative legal acts of the Ministry of Internal Affairs.

Besides these, according to the joint plan signed between the UNICEF and the Commissioner for Human Rights of the Republic of Azerbaijan with the support of European Commission, the visits were conducted in temporary detention places of up to 20 district police departments of the Ministry of Internal Affairs and the situation with children detained there was evaluated.

During the conversations held with responsible officers of Astara, Khachmaz, Shabran and Samukh DPD TDPs, they informed that detained or

arrested minors were kept in the same cell with others with the purpose of safety of those persons.

It was also found out in several TDPs detainees underwent medical examination with participation of police officer. The heads and staff of TDP linked this with safety purposes<sup>17</sup>.

It was observed that in comparison with previous years, in many of the TDPs detention conditions were brought in compliance with modern standards, new detention places were constructed, the claims regarding subjection to rude treatment while preliminary detention decreased, normative documents regulating this sphere were improved from human rights standpoint, control over and care to detention places were increased, as well as other positive results were achieved.

The appeals of the Head of the NPM to the MIA regarding the detected violations didn't remained without attention, these violations were eliminated, in the case of confirmation of the case guilty persons were punished in the frames of legislation and other police organs were informed about this and this is a result of efficient cooperation.

### *2.2.2. The institutions of the Ministry of Justice*

The activity of the National Preventive Mechanism in the direction of ensuring rights of persons detained in the penitentiary institutions was continued. During the current year 112 planned and ad-hoc visits were paid to the institutions under the jurisdictions of the Ministry of Justice.

Individual conversations were held with 1030 persons, protection of their honour and dignity, ensuring their right to not to be subjected to torture were always kept under the focus of attention. Social provision of persons detained in penitentiary institutions, protection of their health, as well as of their rights to apply, to obtain legal aid and other rights were the subject of investigation.

The results of visits give the ground to say that the measures directed at rebuilding of penitentiary institutions and investigation isolators for their bringing into compliance with modern standards, improving detention conditions, efficient provision of human rights in these institutions and rehabilitation of inmates have been continued during the last year as well.

As a result of realized measures and implemented innovations consistent work was carried out on elimination of delinquencies and their causes,

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<sup>17</sup>The Commissioner is of the opinion that these examinations should be conducted with participation of no witnesses for protection of medical secrecy and dissemination of information of personal data of detainee. According to the Article 38 of the 12<sup>th</sup> General Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) - All medical examinations of persons in police custody must be conducted out of the hearing of law enforcement officials and, unless the doctor concerned requests otherwise in a particular case, out of the sight of such officials.



enhancement of the discipline, the control over the places of custody and penitentiaries was strengthened.

As a result of measures realized in 2014, consistent work was undertaken in the sphere of improvement of the penitentiary service, protection of the rights of convicted and detained persons and improving detention conditions according to international standards, the measures in the direction of modernization, strengthening the material-technical basis of penitentiary infrastructure were continued.

Considering the difficulties may arise in detention conditions of inmates due to very cold weather during winter months, as well as very hot weather during summer season, the Commissioner appealed to the Penitentiary Service with recommendation to keep under serious attention the issues of ventilation the dormitories of penitentiaries, provision of inmates with drinking water. Considering the recommendations, concerning measures were undertaken for bettering the ventilation of dormitories of penitentiary institutions, including cells in punishment isolators in summer and winter months and uninterrupted provision of inmates with drinking water, short-period interruptions in water-provision of institutions were solved operatively by appropriate service facilities.

There were sent immediate appeals to the Prosecutor General with regard received information on rude treatment and subjection to violence, in required cases forensic medical examination was carried out. This should be noted that, in 2014, no criminal cases were initiated with the article 293 of the Criminal Code (Torture, cruel, inhuman or degrading treatment or punishment that is not torture).

The Commissioner conducted the visit to *Sheki Penitentiary Complex*.

Sheki Penitentiary Complex consists of 6 buildings 4 of which are three-storied, one is two-storied and one is one-storied, the complex is considered for detention of 900 persons (751 of convicted persons, 149 persons under investigation).

There was found out that in the complex there were working 200 staff members, as well as 413 convicted persons (166 of them in the strict regime, 185 convicted persons- common strict regime, 62 convicted persons in housing brigades), the sanitarian situation of the institution was checked out according to the agreement signed with Sanitarian Epidemiological Station.

During the visit the Commissioner also observed the situation in the cells of investigation isolators, penal isolator, medical-sanitarian unit, housing building, library, kitchen, laundry.

During the visit to medical – sanitarian unit the Commissioner interested with level of the ways of rendering the medical service to persons with diseases. It was observed that in the medical sanitarian unit there are 8 bed places for women and 26 bed places for men, provision with medicine is at the high level. Besides, the kitchen, library, laundry were visited, convicted A.N. detained in the penal isolator was received and the conversation was held with him.

During the visit several accused and convicted persons were received and they expressed their satisfaction with detention conditions, stated that they were not subjected to any ill treatment. The Commissioner gave comprehensive information to those persons on duties and competences of the Commissioner as NPM.

The Commissioner gave concerning recommendations to the administration of the Sheki Penitentiary Complex regarding further improvement of the detention conditions.

During the reviewed year several visits were carried out by NPG to *the Prison*. At the initial visit penal isolator, quarantine room and medical-sanitarian unit were visited, the persons detained there were received and conversations were held with them in a confidential manner. No dissatisfaction was detected on detention conditions and conduct of institution administration. At the end of the visit the NPG members gave the administration of the institution and the head physician of the medical – sanitarian unit the recommendations on detention conditions, treatment and efficiency of rendered medical service.

During the next visit carried out in the prison several convicted persons were received; at the final meeting several recommendations were given to the administration of the institution with regard the detention conditions and treatment.

After several time, a long-term visit was paid by NPG members to the Prison. The purpose of the visit was investigation of information received by the Commissioned, learning the detention conditions and the situation with treatment of convicted persons.

All objects of the institution were visited, approximately 90 persons were received in the individual manner, necessary documents and registration books were reviewed.

*Detention conditions.* Due to the fact that the regime buildings are old the institution does not meet completely the international standards. As all floors are from concrete, and coverings of regime building are from asphalt, these negatively affect convicted persons' health conditions. Detention conditions in cells No.1, 2, and No.3 (before - a penal isolator) of regime buildings II and III of the Prison are not in full compliance with standards, detention in such conditions may be evaluated as additional punishment towards convicted persons.

*Investigations regarding appeals.* Several mass media means contained the information that after appointment of new chief to the Prison there took place the cases of subjection of convicted persons to torture, density and in protest to these the mass hunger strike occurred there.

During the conversation with life-sentenced persons they stated that they were not subjected to any pressure by newly appointed Chief of the Prison and did not participate in any actions, and agreed with administration regarding the previously arisen some problems. During the investigation carried out in the

prison cells no case of detention of convicted person whose number exceeds the number of beds in any of cells was observed.

The investigation of the appeals on beating the convicted person by the instruction of the Chief of the Prison, it was found out that they paid no attention to warning on violation of “Internal Discipline Rules of Penitentiary Institutions”, displayed rudeness toward the staff members and tried to inflict self-injury. Handcuffs and rubber truncheon, that are special means, were applied towards convicted persons to prevent their illegal actions and this was registered according to the procedure.

During the conversation with the Chief of the institution at the end of the visit he noted that with the purpose of implementation of demands of the “Internal Discipline Rules of Penitentiary Institutions” numerous prohibited items were confiscated from convicted persons, that caused to anxiety of some of them and they endeavoured for mass disobedience in the prison through other inmates, but these attempts were prevented according to the legislation, an application before concerning structures was solicited for initiating criminal case against some of convicted persons.

Bringing into attention speeding up construction of new building for prison in order to ensure detention of the convicted persons serving their sentences in compliance with standards, existence of need in carrying out by psychologist of continuous work with convicted persons for bettering their psychological status, there was made an appeal to the Ministry of Justice.

From the letter of response it was found out that the repair work on bettering detention conditions in the mentioned cells, means – covering of floors with wooden boards, changing the covering of buildings were planned to be realized in 2015. At the same time, the construction of the new prison complex that meet international standards in Umbaki settlement of Garadagh district is continuing at present.

Conduction of appropriate documentation is ensured when applying of special means towards inmates, including rubber truncheon according to demands of normative acts.

Applying of special means towards convicted persons, including rubber truncheons in compliance with demands of corresponding normative acts, carrying out of necessary documentation is ensured. The administration of the institution was instructed by the Ministry of Justice on informing the staff of medical – sanitarian unit of the institution regarding the application of special means.

The psychologist of the Prison holds regular reception of convicted persons, including newly came ones. 293 convicted persons were rendered psychological service in 2014, 12 of them were taken under control being included into the risk group. The group of psychologists of the Organization of the Correctional work

department of the Penitentiary Service provides necessary support by visiting convicted persons.

Provision by a newly appointed in July of current year the Chief of Prison of the observance the regime rules, measures realized in the direction of detection and confiscation of prohibited and not allowed items caused to dissatisfaction of a group of convicted persons, as well as to putting forward illegal demands before the administration and using of different forms of protests. In order to prevent such illegal demands and disobedience cases adequate measures according to the legislation were undertaken.

Several planned and ad-hoc visits were carried out to *Baku Investigation Isolator* during the year. The aim of the visits was learning detention conditions in the institution, as well as in the medical-sanitarian unit, treatment of detained persons and existing situation with their medical examination and treatment, as well as the reception of accused persons.

During the investigation it was found out that 9 doctors including 4 therapists, one psychiatrist – expert in narcology, one dentist, one phthisiatrician, one roentgenologist, one pharmacist and 9 middle medical personnel, 4 first-aid-men were employed in the medical – sanitarian unit consisting of 70 beds.

It was also detected that medical provision of the institution was normal. During the investigation the NPG members visited wards of the medical – sanitarian unit, surgery, dentist, X-ray rooms and others, the rooms where the medicine is kept, more that 20 registration books were reviewed, more than 40 persons were met with in the wards where they get the medical treatment, their health status, the medical service rendered to them was learned, their medical books were reviewed as well.

During the conversations with detainees there were no complaints on detention conditions in the medical – sanitarian unit, medical treatment issues or treatment towards the detainees and defected minor shortcomings were eliminated by the administration of the institution upon the recommendations of the NPG members.

The NPG members conducted confidential individual meetings with other accused persons detained in the Baku Investigation Isolator.

These persons were explained the competences of the Commissioner, as well as of the National Preventive Mechanism, legal advice was given to them.

The received persons made no complaints on detention conditions and treatment in the Baku Investigation Isolator.

The aim of the next visit paid to Baku Investigation Isolator was investigation of the information spread in the mass media. About death in this institution of A.R. and its possibility as a result of torture.

During the investigation the conversations were held with the head of the investigation isolator, controllers of the building the person was kept, the head of

the Medical - Sanitarian Unit and with the accused persons detained with him in the same cell, the documents were observed.

It was detected that according to the instructions A.R. undergone preliminary medical examination on the day when he was brought to Baku Investigation Isolator. During the medical examination over his body carried out by the doctors of the institution no injuries were detected.

At the same time, it was found out that on the day when death case took place the health status of A.R. got suddenly worse in the cell where he was detained and the inspector on service urged to doctor. The doctor immediately examined A.R. in the cell, this time he had been fainted; as he had shallow and ongoing over a long period of time breath, his arterial blood pressure sharply decreased, he had threadlike pulse was observed, he was rendered the first medical emergency and was brought to medical – sanitarian unit. According to the certificate get from the medical – sanitarian unit, A.R. got into the “deep agony” condition and despite the rendered medical aid, he died after a short period of time, at 16:50 of the same day.

During the conversation with persons detained in the same cell with him, they stated that A.R. had health problems, underwent doctoral examination and was getting outpatient treatment. They also stated that on the day of his death they were in the same cell, as A.R.’s health condition got worse, they immediately informed the controller, the doctor came in a short period of time and he was rendered a medical aid.

During the private conversation with each of these persons they noted that A.R. and they were not subjected to any violence by the staff of investigation isolator, and on that day he was not taken out from the cell.

Alongside with this, it was found out that the investigation upon the case is carried out in the Sabunchu District Prosecutor’s Office.

The purpose of the next visit conducted in Baku Investigation Isolator was reception of detained persons named in the appeal of the representatives of the Baku Mission of the International Committee of the Red Cross to the Ombudsman Office.

During the meeting the detention conditions, health status of these persons, the treatment of them was investigated.

More than 30 detained persons in the institutions were received; during the individual conversations held with them they did not make complaints on detention conditions and treatment of the institution staff members towards them. These persons were given appropriate legal advice on the right to apply, the competences of the Commissioner were explained to them and regarding the complaints of some of these persons the appeals were sent to concerning bodies on carrying out relevant investigations.

Concerning recommendations were given to the administration of the institution regarding the further improvement of detention conditions.

Several visits were conducted to *the Investigation Isolator No.2*. According to the general results of the investigations, despite regular repair works carried out in the isolator it was not possible to prevent from dampness and walls getting etched as a building of the isolator was old.

The detention conditions of minors under investigation in this isolator were specially learned and when evaluating the conditions in their cells it was found out that in comparison with other cells the conditions are relatively normal.

Putting into operation of new penitentiary institution under construction in Ganja city and meeting modern standards is planned till the end of 2015.

Regarding the additional matters, the Commissioner made appeal to the MJ and asked for undertaking the measures for speeding up repairing works and giving into exploitation the penitentiary institution that is under construction in Ganja city.

Several visits were conducted to the Investigation Isolator No.3 with the purpose to learn current situation with documentation and treatment in the medical – sanitarian unit, as well as reception of detainees.

During the visits, the NPG members visited medical – sanitarian unit of the institution, reviewed necessary documents and registration book as well. Despite it was found out that a new building for medical – sanitarian unit was being constructed, as a result of the investigation several shortcomings were also detected.

Thus, not considering of beds in medical – sanitarian unit that is under construction, absence of isolating room for persons suffering from infectious diseases or suspected in such diseases (except the room for detainees with tuberculosis), despite the existence of relevant medical staff, absence of specialized medical attendant and medical workers at all from 6 p.m. till 9 a.m. create difficulties.

At the end of the visit the administration of the institution was given by the NPG members the recommendations on detention conditions and treatment, an appeal was sent to the MJ.

The letter received from the MJ Head Medical Department stated that indeed there were certain difficulties in placement and functioning of the Medical – sanitarian unit of the isolator. Withal it was stressed that for joining together the rooms retail allocated for MSU and increasing the quality of rendered medical service complete reconstruction and capital repair works of MSUs have been started from the end of 2013, with consent of Penitentiary Service and nowadays these works were being continued intensively. Alongside with 8 diagnosis rooms and work rooms in newly establishing MSUs, the creation of 4 wards of 20 beds in total in different buildings is planned as well. These wards will be used both for stationary treatment and if required as probationary wards for infectious diseases.

Regarding other issues arisen in the letter, it was noted that the staff lists of the institutions of the Penitentiary Service, including of Investigation Isolator

No.3 Medical – Sanitarian Unit do not consider staff units for night duty. As in other penitentiary institutions, in the Investigation Isolator No.3 as well in the case of need in medical aid regarding health of convicted or detained persons in evening or night times, the services of territorial ambulance is used. Such cases do not occur much a year. Thus, only two Ambulance crews have entered the territory of the Investigation Isolator No.3 during 2014, and in both of the cases there was no need in placing of patient to the Medical Institution.

During the next visit to that investigation isolator the Medical – Sanitarian Unit has already been given into exploitation and it was found out that there were two X-ray rooms, laboratory, dentist room was provided with modern equipment, as well as the drugstore was given for use.

It was also observed that the room for private meetings of the investigation isolator was completely equipped, during the conversations with the persons there both accused persons and their close relatives came to visit them positively estimated this.

During the repeated visit to the isolator there were not any complaints on treatment or detention conditions, and it was found out that many of the recommendations given during the previous visits were implemented. However some shortcomings were determined: due to the delay in reviewing of the cases, in sending the decisions and orders, the density that occurs sometimes in the institution; incompliance in the quantity of persons detained in the cells to the square of cells; bringing of drinkable water to the institution by vehicle; absence of central heating system (the cells are being heat up by electrical stoves); absences of ward in the medical – sanitarian unit of the institution for stationary treatment of inmates; inoperative condition of equipment in dentist room; absence of ventilation system (there was one window) and cooling system (air-conditioner) in the roentgenologist's cabinet.

After the appeal to the Ministry of Justice regarding the abovementioned, there was made appeal to “Azersu” OJSC, installation of central heating system was included to the list of repair works of 2015.

The stationary treatment of arrested persons is realized in the regime buildings, in the cells given to use of medical workers. The technical malfunction of dental equipment was solved and concerning instructions were given on installation of air-conditioner in the roentgenologist's cabinet.

It was noted that the issue of provision of arrested persons and inmates with living square according to demands of the legislation will be solved with giving to use of modern penitentiary institutions that are under construction in the districts of the republic.

As seen, the National Preventive Group does not limit its work only with visits and recommendations but also continuously follows these processes.

Short-term visit was paid to the Investigation Isolator No.1. The aim of the visit was investigation of received appeal. Thus, in his/her appeal L.A. stated that

his/her father - inmate L.T. was subjected to physical pressure because he refused to write an application to be moved to Sheki Penitentiary Complex that was newly put into operation and he was groundlessly placed into penal isolator for 15 days.

L.T. was received and an individual conversation was carried out with him. It was found out that in connection with opening of Sheki Penitentiary Complex the list of inmates from that region was being precized, and when the appeals of inmates who wished to be moved were received he expressed his discontent with this and together with other inmates created obstacles to the process of receiving of appeals attracting the attention to himself, also when the conversation was held with him he became irascible and neglected the lawful demands of staff members of the institution and also created obstacles for them in fulfilling their duties.

For violating the rules of serving sentence the head of the institution issued the decision on placing L.T. to penal isolator for 15 days period.

During the private meeting held with L.T. and conducted visual examination of his body no signs of injures were detected. He also stated that he is not dissatisfied with detention conditions of the penal isolator or treatment towards him.

This should be noted that during the visits carried out to the **Penitentiary Institution No.1** the detention conditions in the penal isolator were especially evaluated, private conversations were held with persons detained there, the documents giving grounds for placing in the penal isolator were reviewed. The conversations were held with the administration of the institution regarding the several revealed deficiencies and the shortcomings were eliminated.

Several short – term visits were paid to the **Penitentiary Institution No.2**. The persons received during the visit noted that they are not dissatisfied with the treatment and detention conditions in the institution where they serve their sentence.

At the end of the visit, the administration of the institution was given recommendations on detention conditions and treatment.

This should be noted that the density in the Penitentiary Institution No.2 was completely eliminated in 2014.

During the conversation conducted with several of inmates received during the visit to the Penitentiary Institution No.4, they complained that the doctors of the institution displayed negligent attitude to their health and they were not able to receive the medicaments appointed by psychiatrist.

At the end of the visit the administration of the penitentiary institution was informed about the existence of complaints regarding the medical – sanitarian unit, exchange of opinions was held in this direction. As the same time, the administration of the institution was given concerning recommendations on improving detention conditions. Withal, the Commissioner contacted with the head of the institution and Medical - Sanitarian Unit and set a task on



investigation of issue caused to dissatisfaction of inmates. During the next visit it was found out that the issues raised by the inmates were solved.

During the year the Commissioner, the NPG with involvement of staff of the Sector on protection of rights of Inmates and persons detained in the places of detention additional visits to the Penitentiary Institution No.4 were conducted, private conversations were held with 20 convicted women, their appeals were heard.

The requirements of relevant legislation were explained to the inmates. Generally, these persons expressed satisfaction with detention conditions in the institution, treatment towards them and nutrition.

The visit was carried out to *the Penitentiary Institution No.6*. The aim of the visit was learning of the detention conditions, treatment of inmates, as well as of the situation with implementation of recommendations put forward during the previous visits.

For this aim, in compliance with requirements of the Optional Protocol, the visit was paid to all objects of the institution, including dormitory building, penal isolator, medical – sanitarian unit, meeting places, mosque, club, canteen, bath, private conversations were conducted with about 40 inmates, necessary documents and registration book were reviewed.

While reviewing the registration book it was detected that reproach measures were applied towards 156 inmates for violation of internal regime rules (including placing to penal rooms).

During the visit to Medical – Sanitarian Unit where 20 diseased inmates were treated, it was found out that in order to detect the patients suffering from tuberculosis the inmates underwent fluorography examination, as well as according to the agreement signed with the “Monolit D” company sanitarian – epidemiologic situation of the institution was kept under control, once a week prophylactic measures were conducted, at the same time, the medicament provision was satisfactory.

The visit was paid to all wards of Medical – sanitarian units, manipulation room and room for storage of medicines, the medical registration book was learned.

In general, during the visit confidential reception of about 40 inmates was conducted, including those who were in the penal isolator and in the medical – sanitarian unit, their documents were reviewed, their rights were explained to them. The inmates did not express dissatisfaction with detention conditions, treatment by staff of the institution, nutrition and medical care rendered to them.

This should be noted that considering several recommendation given by the NPM Group during the previous visits to this institution, noticeable measures were undertaken here. Thus, the quarantine room, canteen, bath, the room for storage of items were repaired; heating system of cells was renewed, additional telephone rooms was given to use.

The NPG members positively evaluated the undertaken measures, also brought to the attention of the administration of the institution that there is a need in repair of the club (hall) of the institution.

At the end of the visit the concerning recommendations given to the administration of the institution regarding the detention conditions were solved on the spot.

The visit was carried out to the *Penitentiary Institution No.7*. The aim of the visit was learning detention conditions in the institution, the treatment of inmates and the situation with implementation of recommendation given during previous visits.

During the visit all objects of the institution were observed, including dormitory buildings, penal isolator, medical – sanitarian unit, meeting places, mosque, club, canteen, kitchen, bath, 70 inmates were received in individual manner, necessary documents and registration books were reviewed.

It was found that on the day of visit in the institution of strict regime of 800 inmates, there were 108 persons in housing brigade and 87 inmates were involved in individual work. During acquaintance with registration it was found out that reproach measures were applied with regard 95 inmates for violation of internal regime rules (placing to penal rooms as well). During a year, only regarding two persons a special mean (a handcuff) was applied.

During the visit to Medical – sanitarian unit consisting of 20 beds there were 16 convicted patients. The visit was paid to all wards of MSU, dentist, manipulation, drug storage rooms, medical registration books were reviewed.

The private conversations were conducted with inmates and they didn't expressed dissatisfaction with detention conditions, treatment by institution staff, nutrition and medical service rendered to them.

At the same time the information on violation of the rights of inmate A. Sh. in this institution and beginning of hunger strike by him because of this was investigated. It was found out that this information did not correspond to reality. Thus, A. Sh. in his written explanation stated that he has no complaints on detention conditions and treatment.

This should be mentioned that considering several recommendations put forward by the NPG members during previous visits to this institution considerable work was carried out there.

Thus, in comparison with other penitentiary institutions, up to 200 inmates in the Penitentiary Institution No.7 are provided with work and repairing of penal isolator, wooden flooring of the majority of dormitories were positively evaluated.

Concerning recommendations on several issues given to the administration of the institution at the end of the visit were implemented on spot.

The visit was paid to *the Penitentiary Institution No.8*, the conditions in the Medical - Sanitarian Unit of the institution and the level of rendered medical care were investigated. The wards of the Medical - Sanitarian Unit, dentist room, as

well as drug storage room and others were inspected, the registration books were reviewed, the inmates were met in the wards they get treatment, their health status, also the quality of medical service rendered to them were the subject of investigation, medical books were reviewed.

No complaints were received from inmates the conversation was conducted with on detention conditions and treatment by the institution staff members.

The visit was carried out to *the Penitentiary Institution No.10*. The aim of the visit was investigation of the detention conditions, treatment of inmates, the situation with implementation of recommendations given during previous visits, as well as acquainting the representative of the UNHCHR senior staff member - Mrs. Aferin Shahidzade with penitentiary institutions in Azerbaijan and the work experience of the National Preventive Mechanism.

For this aim, in compliance with the requirements of the Optional Protocol all objects of the institution were visited, including dormitory buildings, penal isolators, medical- sanitarian unit, quarantine room, meeting places, clubs, canteens, sport and computer halls, library, worship places, bathroom, several inmates were received in private manner, necessary documents and registration book were reviewed.

First of all, a meeting with a head of the institution was carried out. During the conversation with him, it was found out that on the day of the visit in the institution considered for 1200 inmates there were 842 convicted ones. In quarantine there were 6 inmates, in penal isolator – 4, in the medical -sanitarian unit – 18, in housing – economic team – there were 110 inmates. The number of foreign citizens was 52. 24 of them were from Iran, 4 – from Russia, 12 – from Georgia, 4 from – Nigeria, 1 from Belarus, 1 – from the Ukraine, 1 – from Afghanistan.

Up to June 17, 2014, 2 inmates died as a result of diseases and no cases of suicide were registered in the institution.

This should be noted that considering several recommendations of the NPG given during previous visits paid to this institution, considerable work has been done there.

Thus, the number of rooms for long-term meetings was increased from 6 to 8 and necessary conditions were created there for meetings of inmates with their families here.

Part of the place for walking was covered for protection from the sun and rain, the sport hall and computer room was repaired and put into exploitation for organization of leisure time of inmates.

The library was considerably enriched and the quantity of books there was increased up to 5300, including e-books – to 137. Inmates can subscribe to 12 different newspapers.

Preparing of the TV program “Resonance” jointly with the convicted persons of the institution can be shown as an example of provided reforms.

The NPG members also visited all wards of Medical – Sanitarian Unit, manipulation room, as well as dentist room, evaluated the conditions there as satisfactory.

In general, during the confidential conversation with the convicted persons in the medical – sanitarian unit, as well as penal isolator, quarantine they have not expressed dissatisfaction with detention conditions, treatment by the staff of the institution, nutrition and medical service rendered to them. However during the visit to ward No.1 of the Penal Isolator it was found out that despite the ward was newly repaired there was humidity and according to the instructions of the administration of the institution D.S. detained there was replaced to other cell.

During the general visit to the institution A.Z. approached to the NPG members to be received and stated at the conversation with them that he was detained innocent and his case was at the European Court of Human Rights at present and he expressed his content with the activity of the Commissioner.

H.J. received at the Medical – Sanitarian Unit expressed his dissatisfaction with court decision and his wish to be released. The competences of the Commissioner were explained to him, at the same time, he was informed that concerning organs will be applied regarding the investigation of his stating about being beaten with demand of money in the Penitentiary Institution No.12.

After regarding their appeals, M.H. (the citizen of Islamic Republic of Iran), M.K. (the citizen of the Republic of Turkey), I.V. and S.B. (the citizens of Federative Republic of Nigeria) were received by the NPG members in a confidential manner. Among the received persons M.K. and M.H. expressed their wish to be extradited to their own countries. The legal advice was given to them, they were also explained the competences of the Commissioner and National Preventive Mechanism, as well as they were advised to urge to the Commissioner with written appeal.

During the visit the persons received in connection with their appeals made no complaints on the detention conditions in the institution and treatment.

At the end of the visit the administration of the facility was given recommendations on strengthening the measures regarding the detention conditions, including repairing the cell No.1 of the penal isolator, observance of cleanness in the place of storage of items of convicted persons, the work of psychologists with detainees.

During the visit to the *Penitentiary Institution No.11* several convicted persons have been received, the appeals addressed to the Commissioner have been investigated.

At the private conversation carried out with convicted persons, H.Z. urged with request to assist him regarding his disease. During the investigation, it was detected that he was in the Treatment Institution on the basis of notification, as well as he was subjected to repeated medical examination by doctor – surgeon of the Treatment Institution Vazeh Kamalov in the Penitentiary Institution No.11,

and it was found out that the patient didn't suffered from hemorrhoids. Despite this, after the recommendations of the NPG the head of the Medical – Sanitarian unit stated that H.Z. would be sent soon to the comprehensive medical examination to the Treatment Institution.

Other convicted person M.R. said that minor misunderstanding between him and the doctor of the institution was revealed and withal the issue regarding his placing in his previous bed was brought to the attention of the head of the institution, the latter mentioned that this issue was under his control and would be positively solved soon as well.

The convicted person M.G. expressed his anxiety regarding his descendants detained in Baku Investigation Isolator, he was informed that the members of NPG met with them and they have no complaints regarding the detention conditions and treatment towards them in that institution. The received persons were once again explained their rights, the head of the institution was given several recommendations by the members of the NPG on the detention conditions and treatment.

This should be mentioned that as a result of investigations carried out by the Penitentiary Service the head of the institution was changed for allowance of deficiencies.

Several convicted persons were received during the visit paid to the ***Penitentiary Institution No.12*** and the conversations were carried out with them. M.H. whose appeal was heard urged regarding his moving to Sheki Penitentiary Complex and said that he had no complaints. Another convicted person A.R. urged with the same request and asked for changing of the detention facility. Both convicted persons were given legal advice and they were explained the terms and rules of moving convicted persons from one penitentiary institution to the other one.

The penal isolator was visited as well; the situation with detention conditions of 20 persons detained there, their health status and treatment was investigated. During the conversation with the persons detained in the penal isolator made no complaints regarding detention conditions, treatment and the level of the medical care rendered to them.

At the end of the visit the NPG members gave several recommendations to the head of the institution regarding the detention conditions and treatment and several deficiencies were eliminated on site.

Besides this, it was found out that during the conducted investigation in 2013 for allowing deficiencies the head of this institution was dismissed from his position.

Short visits were carried out for several times to ***the Penitentiary Institution No.13***. The persons detained in the penal and quarantine room were received, their detention conditions were investigated. The received persons expressed several dissatisfactions regarding the detention conditions in the institution.

This should be noted that the Penitentiary Institutions No.8, 12, 13 and No.14 are threat for lives of the inmates and the staff members of the institutions due to the ecologic reasons as they are situated between the rock quarries in Garadagh district.

The visit was carried out to *the Penitentiary Institution No.14* with the aim of investigation of the detention conditions, treatment of inmates and of the situation with implementation of the recommendations given during the previous visits.

All objects of the institution were visited, including dormitory buildings, penal isolators, medical – sanitarian units, meetings rooms, club, canteen, kitchen, bath, up to 50 inmates were received in an individual manner, necessary documents and registration books were revised.

During the visit to the Medical – Sanitarian Unit of the PI the conversation was held with 10 ill inmates, all wards, manipulation room, dentist's room were visited, and medical registration book was revised. During the review of the book of registration of the injuries it was detected that 26 persons urged with different types of injuries in 2014, and they were rendered appropriate medical aid.

Generally, up to 50 inmates, including the inmates from the penal isolator and medical sanitarian unit were received in a confidential manner, their documents were reviewed, their rights and the competences of the Ombudsman were explained to them. The inmates made no complaints on detention conditions, treatment by the staff, nutrition and medical aid rendered to them.

This should be mentioned that several recommendations put forward during the previous visits to this institution were taken into consideration. Thus, capital repairing works were carried out in the canteen of the institution, the wooden windows there were replaced with the modern type plastic ones, the ceiling of the canteen was covered with the plastic (lambir) meeting the modern standards, the floor was covered with ceramic coating. In order of more efficient organization of leisure time of inmates, the football square was covered with artificial green coating, a billiard – hall with two billiard tables was built and put into exploitation, for solution of the housing problems of the inmates a device for drying the clothes of inmates was installed in the laundry, the phone lines were replaced with new electronic APSs, the phone numbers were increased from 1 to 4, new books in the Latin alphabet were brought to the library of the institution and e-library of 135 books was installed as well. There was given information that the library of the institution owns about 5300 books in total. Soft and modern seats were bought to the club considered for inmates and they are to be installed after conclusion of capital repairing works.

Besides all these, it was also found out that there were some problems in the institution. Thus, during investigation of the detention conditions it was found out that there are intervals in water supply and the water pressure is very low. The Commissioner urged to the “Azersu” OJSC with this issue.

As a result this was revealed that according to the order of the “Azersu” OJSC the “Master Plan” was prepared in order to provide with drinkable water all living settlements situated in the Absheron peninsula, re-building of the canalization and rain water systems. In the frames of the “Master Plan” considering the perspective development of Ghizildash settlement of Garadagh district, relevant project documents were worked out. According to the project construction of two water reservoirs of 2500 m<sup>3</sup> capacity at the absolute height +82m was considered. This was considered to better with help of this reservoirs water provision of other users in neighbouring to Ghizildash settlement areas, as well as of the Penitentiary Institution No. 14.

Besides this, during the conversation with the administration of the institution, the Chief of the MSU, as well as with several inmates received in a private manner, they stated that the medical examination of persons urged for obtaining preliminary or repeatedly disability degree is delayed by the MSEC.

The concerning recommendations given at the end of the visit to the administration of the institution were implemented on the spot.

The Commissioner urged to the MLSP with regard the mentioned issues.

Consequently, the MSEC determined the disability degree to the inmates passed repeated medical examination.

The inmate N. J. was informed that his disability status would be reconsidered when his relevant documents on determination of the disability status were sent to the MSEC by that penitentiary institution.

The case took place in the Penitentiary Institution No.14 on December 22, 2014, was in the center of the Commissioner’s attention. Thus, regarding the death case of the inmate E.I. and objection of inmates to this it was found out that the investigation on the case was being conducted in Garadagh District Prosecutor Office, the death case of the inmate was being investigated and appropriate measures depending on the results of the initiated criminal case would be undertaken.

During the visit carried out to *the Penitentiary Institution No.15* the penal isolator of the facility was visited, the conversation was carried out with the inmates detained there; the appeals addressed to the Commissioner were investigated.

The received inmates said that they had no complaints regarding the detention conditions in the institution and the treatment.

At the end of the visit the administration of the institution was given certain recommendations with regard the improvement of the detention conditions and treatment.

During the visit paid to *the Penitentiary Institution No.16* confidential conversations were held with the inmates detained in the penal isolator of the institution. The quarantine room and Medical - Sanitarian Unit of the institution

were also visited. No complaints were received during the conversations carried out with the detained persons.

The inmate Z.R., who approached to the NPG members at the medical – sanitarian unit and urged for assistance in his placing in the MSU of the facility, was explained the regime rules of the facility and his rights.

At the end of the visit the head physician of the Medical - Sanitarian Unit was recommended to organize comprehensive medical examination of the inmate Z.R.

The visit was carried out in *the Penitentiary Institution No.17*. The aim of the visit was learning of the detention conditions of the detained persons in the penitentiary institution, their health status, existing situation with their treatment, as well as investigation of the appeals received by the Commissioner.

The general inspection of the quarantine room of the penitentiary institution was carried out and the inmates detained there were met with.

During the conversations with several inmates held in the confidential manner in the cells they were detained in, they stated that the special means had been applied towards them. During the investigation it was revealed that those inmates were trying to injure themselves and special means were applied in order to prevent that, appropriate documentation had been conducted in this connection.

The NPG members explained to the persons detained in the penal isolator their rights, internal regime rules and the Ombudsman's competences, also recommended to the physician of the institution to keep under attention the health status of the persons detained in the penal isolator.

It was brought to the attention of inmates and the head of the institution that those persons had been taken under control by the NPG members and repeated meeting would be conducted with them at the further visits to this institution, the situation would be in the focus of attention.

During the visit it was found out that the capital repairing works were being continued in the Medical – Sanitarian Unit of the penitentiary institution, the number of the wards was increased and new stomatological room was constructed as well.

At the end of the visit the NPG members gave concerning recommendations to the head of the institution regarding the detention conditions and treatment and also the recommendations to the head of the Medical - Sanitarian Unit regarding the documentation issues.

During the repeated visit paid to that institution the penal isolator was inspected and several inmates were received, the conversations were held with them.

The received inmate M.R. mentioned that despite he had reached retirement age, he was not able to get his pension card. He was recommended to appeal to the Commissioner on this matter in written. Besides this, the inmates taken under control previously were met with and their conditions were investigated.



Organization of leisure time of inmates in this institution was one of the matters of concern of the Commissioner. Considering the recommendations of the Commissioner as well a sport square meeting modern demands was built in the institution.

Several visits were carried out to *the Specialized Medical Institution*. The aim of this visit was investigation of appeals addressed to the Commissioner by the representatives of the Baku mission of the Red Cross Society.

During the visit to *the Medical Institution* several inmates serving their sentence in this facility were received, among them the inmate R.I. stated that his appeal regarding obtaining disability degree had already been satisfied, inmate I.M. said that he had appealed with regard his pardoning.

During the conversation, I.M. was explained the demands of relevant regulation on pardoning, and he was advised to repeatedly apply after fulfilment of 1/3 part of his sentence.

The inmate A. J. told that his treatment was about to be concluded, however he didn't want to go back to the penitentiary institution he served his sentence due to the problem with other inmates serving their sentence there and asked to assist in his placing to Sheki Penitentiary Complex newly put into exploitation. He was advised to apply to the Commissioner in written.

Repeated visit was paid to *the Specialized Medical Institution* in connection with the information in some mass media sources that inmate N.L. serving his sentence in this penitentiary facility was subjected to violence, he was placed to the penal isolator and hot kettle was tied to his foot, he was also given unknown medicine.

During the conversation with N.L. he said that he had no complaints against the staff or the administration of the institution, and the information placed in the press didn't correspond to the truth.

At the same time, he complained on his being kept in the SMI for a long time despite his not being ill, as well as on prolongation of his court process and asked to be moved to the investigation isolator. During the investigation it was revealed that for the last time there was a decision regarding placing of N.L. for five days to safe place in the Isolation ward.

During the conversation with the doctors of medical service and according to the presented documents, Hepatitis "C" infection (at the clinical level IV) and tuberculosis (infiltration stage of disease) of N.L. were confirmed.

However after receiving treatment for some time Nabiyev had refused from it in written form and concerning documentation was provided in this regard. According to the presented medical certification it was found out that as accused person was suffering from infectious disease, in the case of his placing to the Investigation Isolator or Penitentiary Institution, there would be a real threat that he could infect other inmates and arrested persons, so there was adopted a decision that placing him to any facility would not be expedient.

N.L. was explained his right to complain against the medical certificate of doctor.

During the visit *to the Medical Institution* the detention conditions and the situation with treatment of persons detained in the penal isolator of the institution were investigated.

During the visit the NPG members, carried out general inspection to penal wards of the Medical Institution's penal isolator and met with inmates detained there.

During the private and confidential meetings held with inmates in the penal wards where they were detained those persons made no complaints on detention conditions, treatment and quality of the medical service rendered to them. There were given recommendations to the head of the facility with regard the revealed shortcoming that were eliminated on site.

In order to investigate the appeals addressed to the Ombudsman by the representatives of the Baku Office of the "Red Cross" Society, ad-hoc visit was paid to *the Medical Institution* as well.

During the visit I.A. received by the NPG members said that his wife was a person with disability of the 1st degree and lost the ability to move freely due to the disease, also after his arrest his wife's needs in care had been increased and he urged in her provision with wheel – chair.

I.A. was informed that the investigation would be provided upon his appeal and also appropriate appeal would be sent to the MLSPP. During the conversation he mentioned that he had no complaints on detention conditions, treatment and quality of rendered medical care in the MI. The NPG members asked the head of the institution to keep the psychological status of I.A. under his attention.

*The Commissioner is of the opinion that due to the fact that existing buildings of medical institution are old, the capital repairing works shall be provided here or new institution building shall be constructed.*

The short – term visits were carried out in *the PCSs No. 2, 6, 12, 13 and 14* with the aim to investigate treatment and detention conditions of detentions persons, the detention conditions were inspected and documentation was reviewed.

At the end of the visit the administrations of the institutions were given certain recommendations regarding improvement of detention conditions.

During the visit to *the PCS No.10* the detention conditions and treatment by the staff members of the institution towards the inmates were investigated.

During the visit all objects of the institution, including dormitories, penal isolator and other places were inspected. Despite detention conditions were considered as satisfactory, several deficiencies and shortcomings were detected as well. This was observed that the dormitory where the inmates detained in the

institution stay for the night was heated due to electrical stove and air-conditioning, beddings, bed covering and mattress were dirty, there were no bed linens at all, and situation in other dormitories was the same. It was also observed that the bathroom of the institution is in the old building and didn't meet the sanitarian norms, despite there was observed a construction of a new bathroom close to the old one, the works remained unfinished, due to absence of provision of water line to the institution, water is fulfilled to water reservoirs by water – transporting cars, WC for inmates had been prepared in a primitive manner, and put into use in a way not meeting sanitarian rules, and without doors. During the visit to penal isolator of the institution it was also observed that seized both cells were not in compliance with standards, the beddings were old and dirty, they were not provided with bed linens. Besides this, it was informed that new penal rooms are constructed in the PCSs, however it was observed that its construction was unfinished as well.

During review of the registration book it was observed that the documentation was not done properly, in order to eliminate the above-mentioned issues the Commissioner urged to the Ministry of Justice.

From the received response this became clear that the appeals were considered and measures were undertaken in compliance with recommendations.

The sanitarian unit was repaired; the works on construction of new bathroom and penal isolator were taken under control. This was stated that the bedding belongings would be replaced with new ones and the deficiencies allowed in the registration book would be eliminated as well. This was also emphasized that in order to improve the activity of penal colony settlements, the Ministry of Justice made appeals to concerning authorities on making amendments to the legislation.

Besides this, in the frames of appropriate joint project with the UNICEF, the visits were carried out jointly with the experts attracted by the NPG to the Baku Investigation Isolator, Investigation Isolator No. 2, Sheki Penitentiary Complex, Child Correctional Facility and the situation with children detained there were evaluated.

### ***2.2.3. Institutions of the Temporary Detention Place and Investigation Isolator of Ministry of National Security***

During the last year three visits were paid to the temporary detention place and investigation isolator of the Ministry of National Security. Up to 20 detained persons were received during the visits, private conversations were held with them.

The detention conditions, treatment of detained persons and the information addressed to the Commissioner were investigated.

The abovementioned institution created appropriate conditions for both the Commissioner and the National Preventive Group for efficient realization of the visits.

As a result of the visits evaluating material conditions, nutrition, organization of medical service and treatment of detainees this was concluded that the existing situation in the institution was in compliance with the standards.

During the visit H. P. who appealed to the Commissioner with the request that NPG members to meet with him was received. At the private meeting with him his detention conditions and status were investigated. H.P. said that he had no complaints on detention conditions; he also stated that he was provided with qualified food, as well as walking on time, and doctor if necessary.

He expressed his discontent with non provision of his applications by Baku Court on Grave Crimes that he presented at the court process on his criminal case. In this regard, he was explained the provisions of the Constitutional Law on the “Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan”.

During the inspection of cells and general evaluation there were not observed the cases of violation of demands of the “Internal Disciplinary Rules in Investigation Isolators” affirmed by the Cabinet of Ministers of the Republic of Azerbaijan.

This was also informed that the isolator would be capitally repaired and TV sets would be installed in the cells.

#### ***2.2.4. Establishments of the Ministry of Defence***

The visits were carried out to 4 from 11 institutions under the Ministry of Defence; the situation with elimination of deficiencies and shortcomings revealed during previous visits, realization of recommendations put forwards during the previous visits was investigated.

This should be noted that the reforms realized recently in the Armed Forces created conditions for protection of military servants’ rights and their more efficient provision, played important role in strengthening ideological, legal enlightening and educational works in the army, also of high fighting spirit and psychological status of military personnel.

Planned visit was carried out to the ***Guardroom of the Military Police of the Baku Garrison***. The purpose of the visit was investigation of the detention conditions and treatment.

There was held a meeting in a guardroom consisting of 34 detention places with detained there military servants serving for term and extended period, as well as with soldiers, held conversations on human rights, current military legislation and regulations topics, revised the documents grounding the detention of those persons.

During the visit no violations were revealed with regard detention conditions and treatment of the received persons, as well as the documents confirming the detention of military servants.

F. Hasanov - the head of the Sector on protection of the rights of the military servants of the Ombudsman Office, was involved as an expert to the visit.

During the visit to the ***Guardroom of the Military Police of the Barda Garrison*** the meeting and conversations with 20 soldiers detained there, also evaluation of conditions, no violation was observed.

The visits were carried out to ***Guardrooms of the Military Police of the Kurdamir and Yevlakh Garrisons***; it was found out that the guardrooms in these military police stations had stopped their activity.

In the Military Police the staff members of the Ombudsman Office held conversations with personnel, including young soldiers on human rights, also on the rights of military servants, the activity of the Commissioner as NPM, answered to their numerous questions regarding human rights. The recommendations were given on further improvement of moral – psychological training, nutrition, health protection and housing conditions of personnel.

This should be noted that basing on the proposals of the Commissioner 8 out of 10 guardrooms were closed due to failing to meet relevant standards and only 2 of them are functioning at present.

#### ***2.2.5. Establishments of the State Migration Service***

Two planned visits were carried out to the ***Baku city Detention Center for Illegal Migrants***. The purpose of the visit was investigation of the detention conditions, treatment of detainees and the situation with implementation of the recommendation given during the previous visits.

During the visits the conversation was held with three citizens of Philippines placed there on their own will and they didn't expressed dissatisfaction with detention conditions and treatment.

This should be mentioned that the results of the visit were satisfactory and the mentioned institution meets the demands of standards and all recommendations given during previous visits were implemented.

Additionally, new library was put into use, also this facility was provided with sufficient quantity of clothes and other necessary equipment for further improvement of housing conditions of persons detained there.

Besides this, the citizen M.R. called to the Commissioner's "hot-line" against torture and urged to identify the place of the citizen of the Islamic Republic of Pakistan A.N. with whom she is illegally married and to assist in meeting with him.

As a result of the investigation conducted by the NPG it was found out that A.N. was detained in the Baku city Detention Center for Illegal Migrants and M.R. was immediately informed about this.

This also should be noted that M.R. was provided with a meeting with A.N. in this facility.

### ***2.2.6. Establishments of the Ministry of Health***

During the visit carried out to the ***Republic Psychiatric Hospital No. 1*** the NPG members, investigated the detention conditions, health status, treatment of persons detained there. Putting into exploitation of another building of the facility that meets the modern standards was evaluated as an estimable fact.

The Commissioner applied to the Ministry of Health regarding the elimination of density of patients in the Republic Psychiatric Hospital No. 1. Implementation of several recommendations on the results of visits carried out to this facility was evaluated positively. Thus, the 7<sup>th</sup> and 8<sup>th</sup> tuberculosis departments were re-built in compliance with modern standards and the patients were moved there.

Alongside with this, some results of the last visit caused for concern of the NPG and the appeal in this regard was addressed to the Ministry of Health: keeping of patients more than provided by limits in the facility, density of patients in the gerontology department, placing of 25 beds in the corridor of the department, broken beds and dirty floors, as well as causing continuous damages (biting) to other children by 2 evaded control aggressive ones cause anxiety. According to the international standards, for protection of one patient with psychological diseases from the other one who may injure him/her relevant staff shall undertake appropriate measures.

In the received letter of response the over limit of the quantity of patients in the facility was linked with placing here of the patients from psychiatric hospitals of Ganja city, Sheki and Guba districts due to capital repairing works conducted there and this was also stated that after conclusion of construction of the new gerontology department the density would be eliminated. At the same time, this was also stated that those 2 children with tense psychological state had been taken under strict control of the administration and medical staff of the hospital.

A visit was carried out to the ***Salyan Inter-district (Interregional) Psychiatric Dispensary***. All objects of the dispensary were inspected. During the inspection this was observed that there were no persons kept in the buildings for men and women. This was found out that nobody is kept in the old buildings. All patients were place to the newly constructed building and necessary conditions were created for them.

The inspection was carried out in all wards of the dispensary where 67 persons were placed, the condition of the equipment, availability of beddings was

revised, and the conversations were held with the detained persons. The conditions of the bath room and storerooms were revised; the canteen was inspected as well.

All wards where women are kept were also visited, the conversations were held with them. During the conversations there were no complaints regarding the treatment and detention conditions. During the visit to the canteen it was found out that the quantity of plates and glasses were not adequate to the number of patients, the heater was malfunctioning in the ward No. 210, during the review to the registration book this was also revealed that there was failure in the registration of fixed patients.

Besides this, the documents on the expenses for daily nutrition were reviewed in the account department of the institution, despite keeping of 116 patients here, the documents showed the expenses for 150 persons. During the inspection to the store and sector where the food was being prepared the food provision was observed.

The short term visit was carried out to the Sumgait *City Psychiatric Diseases Dispensary*; detention conditions in the facility, treatment of the detained persons, and the situation with implementation of the recommendations put forward during the previous visits were investigated.

All objects of the Sumgayit City Psychiatric Diseases Dispensary were inspected, no violations regarding the conditions, medical service, nutrition, treatment to patients were observed.

This should be noted that there was observed implementation of many of the recommendations given during the previous visits to this facility, including putting in order the books of registration of parcels brought and presented to the patients in the Sumgayit City Psychiatric Diseases Dispensary and fulfilling this work in a complete manner, equipment of dispensary with five computers in order to provide unified e-registration of patients, sufficiently provision of stationary and ambulatory treated patients with medicaments, hygienic means.

Concerning recommendations were given to the administration of the visited institution for further improvement of the detention conditions.

Considering the recommendations of the Commissioner addressed to the Cabinet of Ministers and to the Ministry of Finances in connection with increasing the amount allocated for daily nutrition of patients kept in psychiatric hospitals due to its unconformity to demands of reality, this amount was increased 5 times that caused to normal nutrition of patients.

### ***2.2.7. Establishments of the Ministry of Education***

7 planned visits and 1 ad-hoc visit were paid to the facilities under the jurisdiction of the Ministry of Education.

The visit was carried out to the ***Special Boarding School No.7 for Children with Limited Psychological Capacities***. The purpose of the visit was investigation of the information spread in the mass media related to beating by teacher of a pupil of the 2<sup>nd</sup> class J. N. of the mentioned facility, as well as carrying out of general inspection.

During the investigation the NPG members held conversation with J.N. who was claimed to be beaten by teacher, also with his classmates and teachers.

During the private conversation with J.N. he stated that he slipped down in a sanitarian unit of the school and hit his forehead at this time to the wall, he showed how the incident took place to the NPG members on site.

At the conversation with classmates of J.N. they told that they got aware about falling of J.N. from him and the attitude of teachers of the school towards them is good.

During the review to the medical book of J.N. it was observed that he underwent doctor's examination that he had no complaints regarding his health and concerning notes were taken.

This was also found out that official investigation was being conducted by relevant law-enforcement bodies, the Commissioner urged to the Prosecutor General and asked for taking the case to his special control.

In the letter of response it was stated that in the materials gathered with regard injuring in the boarding school of J.N. with limited physical capacities, there were the elements of crimes considered in the articles 296.1 (Obviously false denunciation) and 314.1 (negligence) of the Criminal Code of the Republic of Azerbaijan and there was a necessity in realization of numerous investigatory actions for detection of indicated specificities and considering these the criminal case was initiated with the abovementioned articles at the Baku City Prosecutor's Office, the investigation was continued and considering the scope and complicity of the criminal case in order to ensure its conduction in comprehensive, complete and objective manner the plan of investigation had been worked out, underage J.N. and other witnesses were questioned with participation of specialists, the testimonies were verified on site, the forensic – medical expertise was appointed, the operational tasks were set and concerning bodies were sent enquiries.

At the same time this was revealed that as a result of conducted investigations the principal of the school was moved away from the position, afterwards the boarding school was closed at all.

During the visit to the ***Balaken District Secondary Boarding School*** this was find out that 95 pupils (45 of them were girls and 50 were boys) studied there and 40 pupils permanently stayed at school. The dormitory of school is of 40 places, the teacher staffs of school consists of 25 persons, there is also 40 technical personnel and 9 educators.



During the visit it was found out that the school building and dormitory were without repair, classrooms and dormitory were heated by wood stoves, only one refrigerator was functioning in the kitchen and laundry was not in use.

The daily food norm was approved by the Decision No.103 of the Cabinet of Ministers dated 1994, and pupils are provided with food three times a day. As well as the boarding school is supplied with permanent water.

The visit was carried out to ***the Ganja City Sanatorium Type Boarding School of the Ganja City Education Department.***

During the visit it was found out that the school consisting of 2 hectares of territory in total was put into exploitation in 1961, nowadays, the school is functioning on the basis of the Statute prepared upon the “Exemplary Statute of Secondary Schools” affirmed by the Decision of the Cabinet of Ministers of the Republic of Azerbaijan dated January 13, 2011 and adopted at the 4th pedagogical council of the Boarding School held on February 21, 2011. This was also revealed that the school was financed by Ganja city Education Department. The school is consisted of two big buildings including three-floored dormitory and two – floored educational building. Nine years education is provided in the school and mainly this is targeted to children from low-income families. This was found out that at present 136 pupils got education at 9 classrooms of the school and their admission to the school is realized by a special commission complied there.

During the visit this was observed that the school building was old and in unfit condition and according to the information given by the administration of the facility from the date of its functioning from 1961 up to present the building was not subjected to capital repairing.

Alongside with this during the visit conduction of capital repairs was observed and the principal of school informed that Ganja City Executive Power started the capital repair works there.

During the meeting with pupils their nutrition, the treatment of pedagogical staff towards them were investigated and no anxiety was revealed.

During the visit to the ***Goranboy city Boarding Secondary School*** the conditions of detention of pupils and their treatment were investigated, all objects of the institution were inspected. Despite the detention conditions and treatment were considered as satisfactory, several deficiencies and shortcomings were detected as well.

Thus, provision of pupils with clothes once a year is not in compliance with requirements; the boiling – room of the school requires repairing; the sanitarian unit does not meet norms; this was observed that the cover of the building where the canteen is placed was destroyed as a result of heavy wind (according to given information the appeal of the school administration regarding this issue to several state bodies remained unsuccessful).

Regarding the mentioned issues the Commissioner urged to the Ministry of Education.

From the letter of response this became known that conduction of capital repairing works in the Goranboy city Boarding Secondary School named after R. Agakishiyev was considered in the draft of the State Program of the Socio-Economic development of Regions of the Republic of Azerbaijan”.

At the same time, this was mentioned that as the amount allocated from the budget for soft inventory was not sufficient for provision with appropriate clothing of 121 pupils of the boarding school, the issue of increasing of the means allocated for this aim would be reviewed at the district financial department once again.

According to the appeal of the district executive power on repairing the boiling system and of the roof of the school, the commission allocated by the Ministry of the Emergency Situations conducted on-site inspection of the building, provided documentation and beginning of repairing works in near future was considered. Shortcomings existed in sanitarian unit and canalization lines of the school were eliminated at the internal expenses of the facility.

This should be noted that within the frames of joint concerning project with the UNICEF with the experts involved by the NPG the visits were carried out to several institutions of the Ministry of Education.

During the visit to *Guba Special Vocational School* this was found out that the present situation in the facility and small number of children there makes this necessary to change the status of this facility and working principles. No works are carried out for attracting of children to vocational education and social adaptation. The position of psychologist remained vacant.

At the same time serving of 27 staff members to 8 children in the facility gives grounds to say that this body does not justify its activity as a separate structure. Also the Statute regulating its activity does not meet the modern demands.

During the visit to *Guba City Secondary Boarding School for Children Deprived of Parental Care* this was found out that the staff of psychologist is vacant and the building of the school was closed for repairing works and for this reason it was placed to the unrepaired and unfit for winter period kindergarten in close area. During the private meetings with children no cases of their subjection to ill-treatment were revealed, however this was found out that there were no conditions for attraction of children in the facility to vocational education.

During the visit carried out to the Lenkoran City Special Boarding School for Children with Limited Psychical Capacities several Problems were revealed in the institution:

The staff working in the facility are unaware of child rights; their information on rights and duties of children in the facility, on child rights are insufficient; during the private meeting with the psychologist it was found out that there was not a particular room for psychologist and he/she works in the entrance to the medical room, rendering of efficient and professional psychological service

is possible in such circumstances and psychologist didn't have deep knowledge of his/her work sphere and had no information on organization of psychological tests and groups works, provided no psychological work with children at all; the teacher in the boarding school addressed to the children calling them "sick"; in the boarding school, especially in the classrooms and bedrooms for little children there were found wooden switches; while entering in one of the classrooms this was also observed that teacher was walking with a wooden switch in her hand; during the visit period the doctor was not in the place; at the same time, the documents regarding preparation of food had not been signed by doctor for a long time.

During the visit to *Lerik city Secondary Boarding School named after V. Ibrahimov* this was determined that teachers were unaware in the sphere of child rights, the psychologist was absent despite of working hours, dormitory and classrooms of children were inaccurate and dirty.

There was sent an appeal to the Ministry of Education regarding the results of visits carried out in the mentioned institutions.

In compliance with the Ministry of Education Investment Program the capital repairing works are carried out in Guba city Boarding School for children deprived of parental care. According to the appeal of the Ministry regarding placing of the boarding school in other facility, Gusar District Executive Power temporarily placed the boarding school in the building of the kindergarten remained unused.

Alongside with this in order to attract children for vocational education creation of educational workshop was considered within a boarding school during conduction of capital repairing works.

During the monitoring carried out by the NPG members to the Lenkoran city Special Boarding School for Children with Limited Physical Capacities this was revealed that the professional skills of psychologist of the school are low and he/she was dismissed from the position. The administration is carrying out the measures for attracting to the work of psychologist with high professional capacities.

According to the reference given by the school administration the switch in teachers' hands during the teaching process is an indicative switch that used only to show pupils letters and mathematical figures at the elementary classes.

Regarding the reference on the revealed deficiencies during the monitoring presented by the administration of the Lerik city Secondary Boarding School named after V. Ibrahimov, this was noted that the psychologist got reprimand for being late for work.

### ***2.2.8. Establishments of the Ministry of Labour and Social Protection of Population***

During the reported year 10 visits were carried out to the institutions under the jurisdiction of the Ministry of Labour and Social Protection of Population.

The visit was paid to the Specialized Boarding House for Psychiatric, Disabled and Aged Persons No.9.

The purpose of the visit was investigation of the treatment of persons detained there, detention conditions and nutrition in this facility.

This was found out that the Boarding House was considered for 217 persons (older than 18), on the day of visit there were 211 persons (103 of them were men and 108 were women).

All objects of the institution were visited, including kitchen, canteen, and the quality of the food kept in the refrigerator, its manufacture and expiring dates were revised as well.

This was found out that cavils and recommendations mentioned by the NPG members to the administration of the facility during the previous visit there found their positive solution.

Thus, redecorating works were carried out on internal walls of institution, all beddings were changed, new area for leisure in the yard was constructed, and the accuracy was provided in the food storage and kitchen.

This was revealed that existence in the facility only of 1 doctor staff and absence of medical worker at the night duty affects at the quality of medical service rendered to persons kept there.

At the end of the visit the NPG members put forward several recommendations regarding the conditions.

The Commissioner made appeal to the MLSP with regard the results of that visit.

During the repeated visit carried out to that institution no deficiencies were revealed in connection with detention conditions and treatment.

The visit was carried out to the ***Treatment Boarding House***. The purpose of the visit was investigation of treatment of persons detained there, detention conditions and nutrition.

During the conversation with the administration of the facility this was found out that there were 45 persons kept there and they were placed from social facilities in Ramana and Bilgah districts.

During the investigation this was revealed that the institution consisted from 1 building and the persons with disabilities are placed only in the 1<sup>st</sup> and 2<sup>nd</sup> floors of the building.

During the visit the NPG members got acquainted with the conditions in the facility, held conversations with the persons with disabilities living here and learned their problems.

This was found out that there was a necessity in capital repair of building; due to malfunction of elevator serious obstacles existed in going up and down of persons with disabilities to the 2<sup>nd</sup> floor (especially for those who use wheelchairs), also this was revealed that there was non-observance of fire safety regulations (difficulties might happen while taking a persons with disabilities from those places in emergency situations), except two rooms there was not a bathroom, drinkable water was transported by persons with disabilities from aside and sanitarian unit was unfit for use.

The inspection to the rooms of the boarding house revealed that they failed to meet the sanitarian norms.

Additionally, habitants said that they were told they were temporary in this place and frequent change of place negatively impacted their mood, they wanted to be settled permanently in one place.

At the same time, during the conversation with the administration of the facility and habitants they stated that its profile is uncertain, one part of habitants receive food products in cooked condition, the other part receive them as just food products, they were informed that till the end of the month the food provision would be stopped at all.

Among the received persons N.S. told that he/she had a child of 5 years, due to frequent place changing there was no idea regarding to which school he/she should give the child.

H.M. told that despite he should be registered in the city, this had not been done yet and as a result for any certificate or other document he had to go to Neftchala district where he was still registered. He was advised to apply in written form to the Commissioner regarding this issue.

H.H. stated that he wanted bettering of conditions, during the conversation the other persons stated that they had complaints related to the elevator and other shortcomings with conditions.

The mentioned shortcomings were brought to the attention of the administration of the institution at the end of the visit.

The Commissioner urged to the MLSPP with regard the results of the visit.

The visit was carried out to the ***Boarding House for the Disabled persons of War and Labour***. The purpose of the visit was investigation of treatment of persons in this facility, the living conditions and nutrition there.

During the conversation with the principal of the house it was found out that the facility was considered for 350 persons in total and actually there were 133 persons.

All sections of the institution were inspected and the meeting and conversations were held with the habitants. This should be noted that the habitants positively evaluated the activities of newly appointed principal of the boarding house and expressed their satisfaction with the measures realized during the recent months.

At the same time such moments as lack of medicine, absence of gerontologist, doctor at the night duty, also of the car for organization of far-distance walking for the persons with disabilities (with the aim of their integration to the society), absence of ATM in close area for getting by pensioners of their pensions form the cards and of natural gas supply in he institution caused to anxiety. Besides these, this was also revealed that the statute regulating the activity of the boarding house didn't meet the modern demands.

With regard the results of the visit the Commissioner urged to the MLSPP, and regarding the provision of the facility with natural gas she urged to the "Azerigaz" Production Union.

From the letter of response received from the "Azerigaz" Production Union this was stated that project – estimate had been worked out on the base of technical term for gasification of the boarding house, by presenting concerning technical – execution documents after realization of construction and installation works for gasification of the boarding house in compliance with the project – estimate document by the client – organization, this should be urged to the district gas exploitation area regarding gas supply.

The visit was carried out to the *Goygol District Psychiatric Boarding House No. 8*.

In the facility considered for 135 persons, 119 of patients there all were women and it was revealed that majority of them suffered from schizophrenia and mental retardation.

During the inspection to the institution this was found out that the building is four-floored and the second floor was considered for administrative staff. During the acquaintance with the 4<sup>th</sup> floor where the patients are kept this was revealed that the situation here was normal. During the meetings with the patients kept in the wards they made no complaints on detention conditions and treatment by the staff. This was observed that the mattress coverings were normal and clean.

During the acquaintance with the 3<sup>rd</sup> floor of the facility this was observed that its wards and corridors were in normal condition, the wards were heated with electric heaters, the TV sets were installed for the patients in the corridors. It was also observed that on that floor there was an appropriate ward for two persons for isolation of patients with deteriorated disease and from diseases that may cause threat to other patients. However this was also revealed that while placing to this ward, and also during application of special means on such patients there was not a registration book for taking of necessary notes, and there was a failure in organization of proper control in such situations. And this is evaluated as a case that may create conditions for violation of rights of detained persons.

During the acquaintance with the 1<sup>st</sup> floor of the facility this was observed that the conditions of wards and corridors were normal and during the conversations with patients there were no complaints on the living conditions and treatment by the staff members.

Alongside with this, it was found out that the sanitarian units in all floors of the facility required conduction of repairing.

This was also revealed that in the facility sewing, beauty, labour and computer rooms were functioning in the boarding house for efficient organization of the leisure time of patients.

During the visit to the kitchen and canteen that situated in the first floor of the facility this was observed that the conditions there were normal.

The food storage, boiling-house, laundry of the facility were inspected as well. This was observed that 4 cars that were in the balance of the facility were out of service, the stove in the bread – baking sector was not working, and the bread was bought from aside.

One of the main problems of this facility was absence of gasification the building.

During the visit this was revealed that there was a need in undergoing by patients of complex medical examination for other diseases. For example, patient H.S. despite he had a core in his leg, due to absence of specialized doctor in the facility he was not rendered a medical service and those cores were not removed from his leg. Operation of this patient in another medical facility was impossible due to financial capacities.

In order to eliminate the mentioned problems basing on the results of the visit, the Commissioner addressed to the Ministry of Labour and Social Protection of Population concerning recommendations (adoption of new Direction regulating the work of facility and meeting the demands of modern time; organization of making appropriate notes while placing in the isolation room and application of special means; provision of the institution with qualified staff; regular undergoing by patients of medical examination for other diseases as well; repairing of vehicles in the balance of the facility; provision of the facility with the mentioned insufficient necessary inventory; regular acquaintance of the staff of the institution with relevant normative acts on their activities).

The visit was carried out to the Boarding House No. 7 for Children with Disabilities and Physical Defects. The purpose of the visit was investigation of the detention conditions and treatment of children.

Besides the NPG members the Chair of the Board of the Azerbaijan NGO Alliance on Child Rights – N. Guliyev also participated as an expert in this visit.

All objects of the institution were inspected during the investigation, the detention conditions, the treatment of detained persons were evaluated as satisfactory.

The mentioned institution was renewed in compliance with modern standards in 2010 and provided with necessary equipment.

At the end of the visit the head of the Boarding School was given concerning recommendations.

The visit was carried out to the ***Boarding School No.3 for Mentally Handicapped Children*** in order to evaluate the treatment towards them and the living conditions. The Chair of the Board of the Azerbaijan NGO Alliance on Child Rights was involved as an expert to the visit.

All objects of the institution were inspected. This was found out that it was rebuilt in compliance with standards and provided with necessary equipments.

As a result of the visit the living conditions, the rules of treatment of children were considered satisfactory.

Besides this, within the frames of the joint project with the UNICEF with the experts involved by the NPG the visits were carried out to the ***School No.3 and No.7 for Mentally Handicapped Children*** of the Ministry of Labour and Social Protection of Population and the situation with children was evaluated there.

### ***2.2.9. The establishments of local executive powers***

Within the frames of the joint project with the UNICEF and jointly with the experts involved by the NPG the visits were carried out to the ***Orphanages of Baku City Executive Power No. 1 and No. 2***, as well as ***Orphanage under the jurisdiction of Ganja City Executive Power*** and the situation of children kept there was investigated.

The situation in the Orphanage No. 1 was evaluated as satisfactory. During the meeting with children they had no claims regarding ill-treatment. For the first time in Azerbaijan a hostel of 100 beds and meeting modern standards was put into exploitation close to the facility for boys and girls who leave the facility. At present 7 girls and one boy live there and admission of two of those girls to work as nurses was evaluated as estimable fact.

Conduction of training on child rights for the staff and detained children in the facility was recommended.

During the visit to the ***Orphanage No. 2*** despite the limit determined for children to be kept in the facility was 145, 150 of them were revealed there. During the meeting with children they made no complaints regarding ill-treatment. For the first time in Baku the Daytime Care Center was established in the orphanage. This center admits children from families from neighbouring territories with social need or whose children are at risk to be given to state-funded facilities for children.

As a result of visit this was defined that there is a need to attract the staff and children of this facility to the trainings in the sphere of child rights. At the same time, realization of activity regarding solution of social problems of children leaving the facility is important as well.

As the ***Orphanage No. 3*** stopped its work due to repairing works this was impossible to carry out a visit there.



### **2.3. Cooperation with the governmental bodies**

As from the first days, the Commissioner tried to build her activity as NPM in 2014 in close cooperation with governmental bodies.

The NPM of Azerbaijan as every year, in the frames of cooperation sent the report for 2013 year of the NPM to relevant ministries in 2014 and requested its accordingly learning, elimination of mentioned shortcomings, providing information on the measures undertaken in the direction of implementation of the forwarded proposals and recommendations.

From the letters addressed to the Commissioner this is seen that her concerning appeals were learned attentively, majority of proposals and recommendations were implemented, as well as periodic applies on the results of the conducted by the Commissioner during a year visits were taken into consideration.

The appropriate information was presented by the MIA and the following was noted with regard the concerning proposals and recommendations mentioned in the NPM report:

*I. On the paragraph 2 on the improvement of the legislation (accelerating of affirmation of the “Internal Discipline Rules of the Penitentiary Institutions” by the Cabinet of Ministers of the Republic of Azerbaijan):*

“Internal Discipline Rules in the Penitentiary Institutions” was affirmed and this decision by the Order No. Ə220-001-14 of the Ministry of Internal Affairs dated 14.03.2014 was announced to internal affairs bodies in order to be guided in official activity.

*On the paragraph 3 (preparation of the new draft law regulating the rules of detention of administratively arrested persons):*

The new drafts of the “Provisional Statute on detention station for administratively arrested persons” and “Provisional Internal Disciplinary Rules in the detention station for the Administratively Arrested Persons” determining the rules of detention and safeguarding of the administratively arrested persons, rights and duties of staff members on service, also determining detention regime, their rights and duties, were worked out and affirmed.

*On the paragraph 5 (Adoption of relevant normative acts reflecting the provisions on use of devices of video-control installed in TDPs of police bodies, its application rules, at the same time, prevention of dissemination of records:*

According to the Article 36.2 of the Law of the Republic of Azerbaijan on “Ensuring the Rights and Freedoms of Individuals Kept in the Places of Detention” while carrying out the control over detained or arrested persons alongside with other measures video, electronic or other technical means can also be used.

Taking into consideration the mentioned provision, the appropriate para (1.12) was included on this to the “Rules for Safeguarding and Escorting Persons Detained in Temporary Detention Places of Police Bodies” affirmed by the decision Q1-001-13 of the Ministry of Internal Affairs dated 14.01.2013.

*II. On the paragraphs 2, 3 in solving the organizational issues (undertaking the measures in the direction of provision of sending to the Investigation Isolator within 24 hours in compliance with the demands of the legislation of persons detained in the Temporary Detention Places or arrested persons; strengthening the control over the matters of undergoing the detained or arrested persons the preliminary medical examination by the specialized doctor at the TDP within 24 hours);*

“Rules on rendering of medical and psychological care to detained or arrested persons, as well as Rules on detention of detained or arrested persons in medical facilities” affirmed by the Decision No. 67 of the Cabinet of Ministers dated April 18, 2013, were announced in the internal affairs bodies according to the MIA Order No. Ө319-001-13, dated 03.05.2013, and necessary measures were undertaken related to solution of the issues following from demands of the decision, including, determination of medical personnel in state medical facilities for preliminary medical examination of detainees in Temporary Detention Places of police bodies, provision of sanitarian cleaning works in cells at least once a month, disinfection of cells of detainees suffering from contagious diseases etc, withal “medical book of detained persons” on registration of preliminary medical examination of detained persons was prepared and it was disseminated to temporary detention places of city, district police bodies.

Nowadays, the information on undergoing the preliminary medical examination of detained persons brought to the temporary detention place of police bodies is included to the medical book of detained persons and the book is signed by the doctor and officer on duty.

In the case of detection damages in the body of detained person that supposed to took place as a result of torture or inhuman treatment, notes are taken in relevant page of the book and affirmed by detainee’s and doctor’s signature, and the information on the fact is given to the prosecutor’s office.

Concerning tasks were given to city and district police bodies of the republic in the direction of strengthening of legality in the temporary detention places, provision of the rights of detained persons and improvement of the detention conditions and their implementation is under control.

*On the paragraph 4 (improvement of registration in the journal of movement during taking out and bringing back from the cells of the persons detained in the TDPs):*

According to the paragraph 6.7 of the “Rules for Safeguarding and Escorting Persons Detained in the Temporary Detention Places of Police Bodies” affirmed by the Decision No. Q1-001-13 of the Ministry of Internal Affairs dated

14.01.2013, detained or arrested persons are taken out of the cell when they are brought to the investigation and meeting room of the TDP, general sanitarian unit while being brought to the walking yard, when sanitarian cleaning is carried out, when the detainee or arrested person is released, placed to the other cell, also when the search is conducted in the cell, as well as in the natural disaster and emergency situations.

Appropriate notes are made in the book considered by the internal disciplinary rules each time when detained or arrested persons are taken out from the cells to the investigation and meeting rooms, court meetings, places where investigation actions took place.

*On the paragraph 5 (Conduction of wide promotional works among concerning police officers of the Law of the Republic of Azerbaijan on “Law on “Ensuring the Rights and Freedoms of Persons Held in Places of Detention”):*

According to relevant instruction of the MIA learning of the Law on “Ensuring the Rights and Freedoms of Persons Held in Places of Detention” by concerning staff of city and district police bodies and passing by them the examination were ensured.

“Internal Disciplinary Rules in the Places of Detention” prepared in compliance with demands of the mentioned Law and affirmed by the Decision No. 63 of the Cabinet of Ministers dated 26.02.2014, was announced by the Order No. Ə220-001-14 of the MIA dated 14.03.2014 at the internal affairs bodies to be guided by it in professional activity, necessary measures have been realized on implementation of tasks following from that decision, the provisions on protection of rights and freedoms of detained and arrested persons were translated into the Russian, English languages and their installation in temporary detention places was ensured.

Holding of seminar – trainings in regions was also considered in order to increase the efficiency of activity of the service in the temporary detention places of city and district police bodies of the republic.

*On the paragraph 7 (creation of the room for worship in order to ensure the right of conscience of persons detained in the detention station for the administratively arrested persons):*

In the detention station for the administratively arrested persons appropriate conditions were created for administratively arrested person for realization of the religious rites.

*On the paragraphs 8 and 9 (improvement of conditions in the detention stations for the administratively arrested persons considering prolongation of administrative arrest period from 15 days to 3 months (for example, increasing the quantity of showers, creation of meeting rooms etc); considering the need in conduction of repairing works in the detention station for the Administratively Arrested Persons of the Baku City Main Police Department carrying out of measure in this direction):*

According to the Order No.Ə64-001-14 of the Ministry of Internal Affairs dated 25.01.2014, the detention station for the administratively arrested persons was taken out of the direct subordination of the Baku City Main Police Department and given under the jurisdiction of the MIA Public Safety Department.

At present, in order to further improve existing conditions in the detention station for the administratively arrested persons and their bringing in conformity with international standards, throughout repairing and re-constructional works have been started and provision of police organs with service rooms was considered as provided by the “Norms of Provision of the police organs of the Republic of Azerbaijan with specially equipped buildings” affirmed by the Decision No. 130 of the Cabinet of Ministers of the Republic of Azerbaijan dated July 30, 2001.

*On the paragraph 10 (carrying out additional measures for organization of efficient leisure time in the detention station for the administratively arrested persons (installation of TV sets etc.):*

In the new draft of the “Provisional Rules of Temporary Internal Disciplinary Rules in Detention Station for the Administratively Arrested Persons” such issues as provision of administratively arrested persons kept in the cells with table-games (dominoes, chess, checkers) for general use, newspapers and journals, also installation of TV sets in the cells of the station, buying by arrested person on his/her own expenses of literature, newspapers and journals from the market network were ensured.

*On the paragraph 11 (switching off of electric bulbs at night-time and installation of night lights in the TDPs and Detention station for the administratively arrested persons):*

Lightening of the cells in the detention station for the administratively arrested persons is carried out in compliance with the paragraph 6.30 of the “Norms of provision of the police organs of the Republic of Azerbaijan with specially equipped buildings” affirmed by the Decision No. 130 of the Cabinet of Ministers of the Republic of Azerbaijan dated July 30, 2001, and the shortcomings mentioned in this sphere were eliminated.

*On the paragraph 12 (provision with daily newspapers of persons detained in the TDPs and in the detention station for the administratively arrested persons):*

Detained or arrested persons have the right to use literature, including special literature, to take literature, newspapers and journals from the library of the TDP for use, to obtain writing belongings, literature, newspaper and journals on their own expenses through the Chief of TDP.

*On the paragraph 13 (provision of persons on the state account with hygienic products in the TDPs and in the detention station for the administratively arrested persons):*

According to the paragraph 10.7 “Internal Discipline Rules in the Temporary Detention Places”, in the case if there is no financial means on the accounts of detained or arrested persons, their provision with soap, toothpaste, tooth brush, disposable shaver for men and hygienic products for women is considered.

Giving of the mentioned products to the administratively arrested persons is also considered in the “Internal Disciplinary Rules in the detention station for the administratively arrested persons”.

In the frames of the cooperation with the Ministry of Internal Affairs, considering the proposal of the Commissioner on preparation of the new normative act on the administratively arrested persons that will be in compliance with modern standards, in order to bring the service activity related to safeguarding and escort of administratively arrested persons in compliance with international standards, as well as in order to ensure more reliable protection of the rights of detained persons, new drafts of the “Statute on the Detention Station for the Administratively Arrested Persons” and “Internal Disciplinary Rules of the Detention Stations for the administratively arrested persons” have been worked out, and were sent to the Commissioner for learning, giving reference and putting forward recommendations.

After the NPG revised those projects and the proposals of the Commissioner were taken into consideration, that Rules and Statute were affirmed.

The **MJ** presented concerning information on implementation of the recommendations given in the report for 2013 year on the activity of the Commissioner as a National Preventive Mechanism.

*I. On the paragraph 1 in the direction of the improvement of the legislation (enshrining of the responsibility for creating obstacles to the lawful activity of the NPG in the Code of Administrative Offences of the Republic of Azerbaijan):*

Regarding the issue the draft law prepared on the implementation of the Paragraph 1.1 of the Decree of the President of the Republic of Azerbaijan dated August 8, 2011, “On Implementation of the Constitutional Law No. 163-IVKQO dated June 24, 2011 “On Making Amendments to the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan”, was sent with a letter No. 3/802-R693 dated 17.05.2012, to the Cabinet of Ministers.

*On the paragraph 2 (Facilitation of affirmation of the “Internal Disciplinary Rules in the Penitentiary Institutions” by the Cabinet of Ministers of the Republic of Azerbaijan):*

With the Decision of the Cabinet of Ministers dated February 26, 2014,

on affirmation of the “Internal Disciplinary Rules in the Penitentiary Institutions”, the “Internal Disciplinary Rules in the Investigation Isolators” and “Internal Disciplinary Rules in the Temporary Detention Places” were affirmed.

*On the paragraphs 14 – 19 (Undertaking by the Ministry of Justice of measures in the direction of elimination of density occurred in some of the penitentiary institutions; accelerating of constructional works in newly built penitentiary institutions):*

In order to bring the detention conditions in the penitentiary institutions in conformity with the international standards, as well as exclusion of density cases, the attention was paid to construction of new penitentiary institutions in the regions of the republic.

The construction of the Sheki Penitentiary Complex was finished in 2013 and it was put into exploitation with participation of the Ombudsman on July 2013, and started functioning at the end of the year. The constructional works in compliance with project – estimate documents are continued within the frames of means annually allocated by the state in the penitentiary institution and Correctional institution in Zabrat settlement of Baku city, in the prison in Umbaki settlement, in the under construction penitentiaries in Ganja and Lenkoran. The building of new Medical Institution is also included to the complex of new penitentiary institutions to be constructed in Baku city. Creation of necessary conditions in new Medical Institution was considered. Preparation of project – estimate documents on mixed-type penitentiary institution to be constructed in Kurdamir in approval with concerning organizations was finished. Depending on allocation of financial means realization constructional works are consecutively continued.

*On the paragraph 20 (Provision of the medical-sanitarian unit of the Penitentiary Institution No. 5 with new building by the Ministry of Justice):*

Taking into consideration that the building of the Medical – Sanitarian Unit is old and its reconstruction is impossible, the relevant project documents were prepared for construction of a new one, the matter was raised before the Ministry of Economy and Industry in 2013 and 2014 years for allocation of financial means from the State Investment Expenses of the State Budget, but this was not achieved. Despite this, project proposals were submitted to relevant bodies for allocation of investments for the construction of medical-sanitarian unit meeting the modern standards in 2015.

Alongside with this, repairing works were carried out in the treatment wards of the MSU in the beginning of 2014 and 3 wards consisting of 16 beds have been completely repaired. The electric lines were renewed, sanitarian unit and bath for the inmates were re-constructed, the walls and

floors were covered with tiles.

The kitchen of the Medical – Sanitarian Unit and the room for storage of the things of the inmates were also capital repaired, the yard was cleaned up. Conclusion of repairing works in the doctor's and medical examination rooms are considered to the end of year.

*On the paragraph 21 (Improvement of the activity of the Medical – Sanitarian Unit of the Penitentiary Institution No. 5 by the Ministry of Justice):*

The problems raised by the Ombudsman in her appeal (failing to make appropriate notes in medical book, keeping of medicine open that are given to inmates detained in the penal isolators, distributing of medicine to other persons deprived of liberty by an inmate, existence of several old equipment in the dentist's room, rendering of medical service to inmates while there was no water supply) were comprehensively discussed at the meeting of the Medical Council held in March of the current year, the activity of doctors were analysed and the deficiencies in their activity were strictly criticized. The shortcomings detected as a result of inspection carried by an established special commission were brought to the consideration of the personnel of the Medical – Sanitarian Unit, once again distribution of medicaments by inmate to others persons deprived of liberty was emphasized as inadmissible, and considering that the person was estranged from the unit the task was set on non repeating such cases in future.

Despite that the Institution is placed far from Baku city, the attached inspector and other staff implementing the controlling functions were set tasks to carry out regular visits to the Medical-Sanitarian Unit and recalled in any case to pay attention to making notes in the medical book and required storage conditions of medicine.

Appropriate tasks were given for provision of the dentist's room with new equipment till the end of year, creation of relevant conditions there for its work. The dentist was given a warning regarding the deficiencies revealed during the visit of the National Preventive Group.

In order to improve the activity of the doctors, the chief of the Medical – Sanitarian Unit was involved to several trainings held in the specialized medical institution and Main Medical Department.

*On the paragraph 22 (strengthening the control over the activity of the penal colony settlements by the Ministry of Justice):*

Despite urging to concerning state bodies on allocation of financial means in compliance with the amendments to the legislation on execution of punishments in order to realization of measures for organization new detention conditions in the penal colony settlements, the problems has not been solved positively yet.

At the same time, the proposals on making amendments to the Code of

Execution of Punishments on liquidation of placing of inmates to the penal colony settlements in the practice of changing the type of penitentiary institutions was prepared by the ministry was submitted to the Administration of the President of the Republic of Azerbaijan.

*On the paragraph 23 (organization of wards for stationary treatment in the Medical – Sanitarian Unit of the Investigation Isolator No. 3 by the Ministry of Justice):*

In order to join separated rooms for Medical – Sanitarian Unit and increasing the quality of rendered medical service, thorough reconstruction and capital repairing works have been started in the Unit from the end of 2013.

In a newly established Unit 8 diagnosis cabinets and rooms were created, besides these, in different buildings 4 wards with 5 beds in each were repaired as well. These wards are used both for stationary treatment and as isolator of contagious diseases if required.

*On the paragraph 24 (Carrying out of control by the Ministry of Justice over application of administrative reprovess and special means only if necessary and in this case over the strict conduction of documentation and mandatory receiving of explanation from inmate):*

At the Operational meetings of the Ministry of Justice Penitentiary Service, such issues as strengthening the legality and law and order in the penitentiary institutions, protection of the rights of inmates, as well as the problem of adequacy of reproof measures applied towards them were in the focus of attention.

In the decision adopted at the Operational meeting devoted to the results of 2013 and the forthcoming tasks and held on January 29, 2014, the heads of the institutions were set tasks to ensure adequate application of reproof measures applied on inmates taking into consideration the graveness of violation and the personality of inmate. As a result of realized reforms, during the first quarter of 2014, 19, 3% less violations of the rules of the execution of punishment were registered in comparison with corresponding period in the previous year. The 19, 7 % less reproof measures were applied for the violations in comparison with the corresponding period of previous year. The applied reproof measures decreased in comparison with the previous year, the priority was given to private conversations with inmates. The number of inmates placed to the prison decreased trice.

Special means are applied on inmates in the penitentiary institutions in exceptional cases as it prescribed in the legislation. This time, the requirements of the Article 78 of the Code of Execution of Punishments (Safety Measures in the Penitentiary Institutions) and of the Articles 43-45 of the Law on “Ensuring Rights and Freedoms of Persons Held in the Places of Detention” are strictly followed. The Inspection on Control over



Execution of Punishments and Penitentiary Service of the Ministry are informed about each fact of application of the special means in the penitentiary institutions. The investigation is conducted on received information and reasonableness of application of special means is checked out. Illegal or groundless application of special means was not registered.

*On the paragraph 25 (conduction of measures by the Ministry of Justice in the direction of increasing the quality of legal assistance rendered especially in regions out of the capital, increasing the numbers of lawyers and legal advice offices):*

In compliance with “The State Program on Poverty Reduction and Sustainable Development in the Republic of Azerbaijan for 2008-2015 years” the ministry provided the functioning of regional legal advice service centers in the regions in order to aware the poor population on their civil rights, widening their opportunities to access to free of charge legal assistance services.

These centers were placed in the administrative buildings of central judicial bodies and courts, the specialists were provided with necessary legal literature and technical means, deep learning by them of international documents and national legislation regarding human rights protection was under focus of attention.

Withal, within the frames of the jointly with World Bank project “Modernization of the justice system” free of charge legal advice centers were functioning from 2010 to 2013 in Baku and Guba cities. In these centers the special attention was paid to the issues of protection of social rights of families with low income and the relevant measures were carried out in representation of applied persons’ rights at court.

Undertaking of measures in expanding the activity of free of charge legal advice centers during 2015-2018 years is considered in the frames of the project “Progressive judicial services and modern court infrastructure” planned to be realized with financial support of the World Bank.

The Law Clinic under the Academy of Justice of the Ministry has started functioning from September 2013, within the frames of the joint “Program of Support to Reform in the sphere of Justice” implemented with European Commission with the purpose to enlightening the practical skills to lawyers and to render free of charge legal assistance to the strata of population with low-income. At the clinic under the supervision of lawyers and professors of the Academy the owners of the legal specialization render legal assistance in a form of advice to groups of population with low-income – pensioners, persons with disabilities, refugees and internally displaces persons, studying young people and other persons.

*On the paragraph 26 (considering the density and dissatisfactory conditions in relevant wagons considered for escort of detained persons from penitentiary institutions to the temporary detention places (and*

*backwards) renewing of the infrastructure in this sphere):*

Two specially assigned wagons in the balance of the Ministry of Internal Affairs are used for transportation of arrested persons and inmates. The wagons were subjected to capital repairing in the Voronezh Wagon Repair Plant of the Russian Federation according to the request of the relevant ministry and one of them was put into exploitation from the Azerbaijan Republic Railways LTD on July 11, 2013 and the second one was put into exploitation on January 13, 2014.

The total capacity of cells in each wagon is 80 persons. The wagons are provided with necessary equipment, fire – safety alarms have been installed, the ventilation system was capitally repaired. Transportation of arrested persons or inmates in those special wagons is carried out according to their capacities.

*On the paragraph 27 (bringing in conformity with modern demands the waiting rooms of some courts):*

In order to renew the court infrastructure the projecting of complexes and buildings of more than 30 courts meeting the most contemporary demands were prepared in compliance with the project “Modernization of the system of justice”. In the frames of measures realized in this direction, new administrative buildings meeting modern standards were constructed for Yasamal District Court of Baku city, Nizami District Court of Ganja city and Gadabay District Court, the construction of Sheki Court complex was started. Also, the construction of court complex where two courts will be placed, new buildings of Binagadi District Court, Guba, Gabala, Imishli and Zagatala district courts are being constructed. All necessary conditions were created for the participants of court proceedings in the new court buildings.

*On the paragraph 28 (giving concerning proposals to the Cabinet of Ministers of the Republic of Azerbaijan in the direction of increasing of financial means considered for detention of arrested persons and inmates (including provision with nutrition, medical care and medicine):*

At the end of each year the proposals in compliance with norms as provided in the legislation are sent to the Ministry of Finances on allocation of financial means for the next year considered for detention of arrested persons and inmates, also for organization of their nutrition.

The concerning Ministry taking into account submitted proposals, in its term gives proposals to concerning draft law to be submitted to the Cabinet of Ministers on allocation of relevant financial means with the aim of maintenance of the Penitentiary Service. The allocated means being divided into relevant periods are included to the estimate of expenses and being approved with the Cabinet of Ministers they are used as assigned.

*On the paragraph 29 (creation of new manufacturing spheres for involvement of inmates to the socially useful labour):*

Ensuring of employment of inmates, their involvement to the labour was being kept under the attention and the appropriate measures in this direction were continued in the previous period as well. During 5 months of 2014 more than 20, 6% inmates in comparison with corresponding period of previous year were involved to labour. 1148 persons from inmates involved to the labour worked in production and individual works, agriculture, 1832 persons worked in production and housing works.

In the frames of the “Program of Support to Reforms in the sphere of Justice” realized jointly with the European Commission, the measures were carried out for organization of new production fields, measures were undertaken in repairing of old equipment and installation of new ones in order to open additional labour places in 16 penitentiary institutions and 4 penal colony settlements.

200 items of machine and tools were given to penitentiary institutions, 2 tractors and 6 trailers were bought for penal colony settlements. Nowadays in 10 penitentiary institutions machines and tools of individual labour sectors, sewing machines of 4 penitentiary institutions, machines for furniture manufacturing of 1 penitentiary unit were renewed and put into exploitation and the cellophane production was started in penitentiary institution No.11.

The measures on creation of fields of production of carton, tamet and steel containers in the penitentiary institutions No. 2, 5 and No. 10 are continued. The works on creation of boiling room were undertaken, appropriate agriculture sectors have already been created in several institutions, in other institutions the possibility of their organization was learned and the measures were determined.

The MNS has considered the issue of relevant learning of the proposals and recommendations mentioned in the NPM report, elimination of shortcomings, presentation of information on undertaken measures in the direction of implementation of forwarded proposals and recommendations.

No additional comments were given in the report regarding the cases described in connection with the activity of the Temporary Detention Place and Investigation Isolator of the Ministry of National Security of the Republic of Azerbaijan.

*On the paragraphs 30 and 31 (involvement of the members of the NPG to the enlightening of concerning staff members by the MNS; ensuring of use of psychological care by the persons detained in the TDP and Investigation Isolator of the MNS):*

Regarding the implementation of the recommendations in relation to the MNS this was stated that the issue of involvement of NPG members to legal enlightening of the staff members was considered to be possible;

regarding the provision with psychological aid to detained persons in required cases this was also stated that relevant specialists from MNS polyclinics are benefited from.

Concerning proposals and recommendations noted in the NPM reports were learned by the **MD** and this was stated that the measures are realized in the direction of elimination of the shortcomings and implementation of recommendations stated in the report. Thus, relevant measures are continued in the direction of laying the gas – line to the Disciplinary Military Unit No.133 mentioned in the report and conclusion of Guardroom of Military Police of Lenkoran Garrison.

The **State Migration Service** stated that in compliance with the recommendations mentioned in the report on the activity of the NPM for 2013, the Service is ready to organize joint enlightening events for staff members of Yevlakh city Center for the Detention of Illegal Migrants of the State Migration Service of the Republic of Azerbaijan.

## CHAPTER 3.

### LEGAL ANALYSIS

Efficient organization of legal analysis is one of the important tasks standing before the Commissioner. The proposals and recommendations worked out and prepared on the both legislation and the organizational issues as a result of legal analysis of norms touching in this or that way the interests of persons deprived of liberty are sent by the Commissioner to concerning state bodies and mostly they found their positive solution.

In comparison with previous years, improving in 2014 of existing normative – legal base in order to ensure more efficient prevention of tortures taking into account the proposals of the Commissioner can be considered as one of important factors.

From the standpoint of ensuring the independence of national human rights institutions, the Commissioner of Azerbaijan is not related to any branch of the government (legislative, executive, judicial) and builds the activity basing on the principles of publicity, transparency, rule of law, justice and impartiality.

The legal reforms in the justice system, at the same time the measures realized in the direction of improvement of activity of penitentiary institutions are evaluated positively by us and this should be noted that there is a need in continuation of works in this sphere.

The Commissioner put forward several proposals and recommendations regarding solution of problems revealed as a result of visits carried out by the NPG to the Penitentiary Service institutions, as well as Medical Institution of the Ministry of Justice.

During the investigation regarding the right to access to information of persons receiving treatment in the PS Medical Institution, this was revealed that lying patients were not able to enjoy this right as there were not TV set in the wards. Thus, watching TV programs by inmates is possible only in special rooms of the institution. This is advised to install TV sets in the Medical Institution of the Penitentiary Service and Specialized Medical Institution.

During the investigation regarding the correspondence of inmates this was revealed that in many cases, the appeals sent by the inmates to their lawyers or other persons lawfully rendering legal aid, to bodies carrying out control over the activity of penitentiary institutions and to the Commissioner, as well as the responses received from those bodies pass censorship and the conspiracy is violated. Especially, the life – sentenced inmates, serving their sentences in the Prison stated that their correspondence was under control, as a proof the responses to their letters pass registration and stamped, the copies of answers are added to their personal files and they put they are made to put signature in relevant journal.

During the investigation of the mentioned issue this was detected that such cases existed not only in the Prison but also in several penitentiary institutions and investigation isolators. The majority of the letters from the penitentiary institutions are received to the address of the Commissioner with covering letter signed by the head of the institution, and the letter in a closed envelope sent to inmate was opened and after acquaintance of inmate and his/her relevant signature was added to his/her personal file.

Such cases cause to violation of the demands of the Article of 8.5 of the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan”, of the Articles of 83.2 and 83.5 of the Code of Execution of Punishments. The proposal given on this issue was regarding the necessity of undertaking the measures for investigation of the issue subjection to censorship of appeals sent by life-sentenced inmates or inmates sentenced to certain period of confinement to their defenders or other persons lawfully rendering them legal assistance, to the bodies realizing control over the activity of penitentiary institutions and to the Commissioner for Human Rights, as well as the responses received from them and prevention of occurrence of such cases in future.

During investigation of receiving social allowances this was revealed that as some of inmates didn't have documents confirming their identity they were not able to enjoy this right.

As a result of investigation conducted by us this was revealed that the majority of inmates who are citizens of the Republic of Azerbaijan didn't have identity cards at all. In order to provide the inmates who don't have the ID card of the citizen of the Republic of Azerbaijan the issue was raised before concerning bodies (the appeal in connection with the mentioned issue was sent to the Ministry of Internal Affairs, ASAN Service).

As a result of monitoring in the penitentiary institutions and analyses of legislation regarding application of special means this can be concluded that there are possibilities of abuse while application of these means. This is connected with limitation of detailed normative regulation on their implementation and ultimately can increase the risk of subjection to ill-treatment or punishment of a detained person.

From our side, this were proposed that there is a need in enshrining of the duties of staff members of the penitentiary institutions during application of special means in the Instruction “On Safety Measures in the penitentiary system of the Republic of Azerbaijan and Rules of their application”, also in improvement of rules of application of these means in compliance with the Paragraph 33 of the UN Standard Minimum Rules for the Treatment of the Prisoners, Paragraphs 68.2 and 68.3 of the European Penitentiary Rules, at the same time with the standards of the European Committee for the Prevention of Torture.

Besides, this should be brought to the attention that in several cases, the applications regarding creation of obstacles for meetings of inmates with lawyers, also with other persons owning the right to render legal assistance to them, demanding by the Penitentiary Service of permission letter despite existence of the relevant agreement between the person applied for legal assistance and a lawyer cause anxiety. Investigation of such cases and carrying out of measures towards their elimination is important as well. The projects of the “Provisional Statute of the Detention Stations for the Administratively Arrested Persons” to be affirmed by the Ministry of Internal Affairs of the Republic of Azerbaijan, as well as “Provisional Internal Disciplinary Rules in the Detention Stations for the Administratively Arrested Persons” were revised at the Office of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan.

The set of proposals consisting of 58 additions and amendments to those projects were prepared and submitted to the Ministry of Internal Affairs.

The forenamed statute and rules were affirmed by the Decision No. Q14-001-14 of the MIA dated June 11, 2014.

Another progressive step undertaken in the legislation was an amendment to the Article 26 of the Law of the Republic of Azerbaijan “On Police” dated October 28, 2014. According to this amendment only police officers whose list is determined by concerning executive power body (MIA) can use electroshock device.

According to the previous legislation there was no limit in use of electroshock device. With the permission of the heads of police departments and offices, commanders each policemen could use this device.

According to the amendment electroshock device can be used in the circumstances when assault and other violence may cause real threat to human life and health take place, also when revolt or mass disturbances happen, in the case of repulsing a group attack to living buildings, also to facilities, offices, organizations buildings, in the case of armed resistance of detained person or existence of sufficient reasons for suppose that armed resistance can took place.

Alongside with this, using of electroshock device will be possible while prevention of escaping of the detained person accused in perpetrating crime, arrested person or a person sentenced to certain term of confinement or of life-sentenced person, as well as when the other persons use force for liberating this person.

## CHAPTER 4.

### LEGAL ENLIGHTENING

This should be mentioned to the point that OPCAT recalls that the effective prevention of torture and other cruel, inhuman or degrading treatment or punishment requires education and a combination of various legislative, administrative, judicial and other measures.<sup>18</sup>

As in previous years, the legal enlightening work was carried out in 2014, in different directions; it was organized for the NPG members, the staff members of the detention places, as well as detainees.

Special attention was paid also to enlightening of the members of the NPG during the period of activity. Conduction of concerning trainings, instructions, seminars with involvement of influential experts has a special significance in improvement of the NPM work, increasing the capacities of members of the preventive group. In this standpoint, the members of the NPG themselves tried to benefit from these trainings.

As a continuation of measures in the direction of learning the European experience in the frames of the EU TAIEX (Technical Assistance and Informational Exchange) Project, the members of the NPG participated at the seminar on the topic “Social adaptation of persons released from serving their term from the penitentiary facilities” conducted on January 29, 2014, at the Ministry of Labour and Social Protection of Population, with participation of the expert from the United Kingdom of Great Britain and Northern Ireland Mrs. Sharon Walker. The aim of the seminar was to acquaint with the works undertaken in the country in the sphere of social adaptation of persons released from the penitentiary institutions, to introduce local specialists with the international experience in the relevant sphere, attraction of the society’s attention to assistance in social adaptation of the abovementioned persons.

Considering the contribution of legal enlightening of the staff of the law-enforcement bodies in more efficient protection of human rights, this was decided to conduct such meetings and events on a regular basis.

At the seminar considered to be held on the topic “the Constitution of the Republic of Azerbaijan, respect to human and citizen’s rights and freedoms” for the staff of the migration bodies of the Republic of Azerbaijan on May 24, 2014, the representative of the Ombudsman Office held a seminar.

From August 2007, according to the Memorandum of Cooperation between the Ministry of Internal Affairs of the Republic of Azerbaijan, UNICEF, OSCE

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<sup>18</sup> “Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Preamble,



Baku Office and NGO Alliance for Child Rights, a special pilot project has been realized with the aim to improve prophylactic measures among underage children and prevention of criminality among children.

According to this Memorandum Rehabilitation Center for Children and Youth in Conflict with Law was established on September 15, 2007, by Reliable Future Youth Organization, NGO Alliance for Child Rights, Ministry of Internal Affairs of the Republic of Azerbaijan, UNICEF, and the British Embassy in Baku, OSCE Baku Office, and Essex University of Great Britain. Up to now more than 430 children and young people committed crime or delinquency were involved to rehabilitation in the center.

In order to direct and coordinate the activity of the Center, and in order to discuss the works of children undergoing rehabilitation in the center and children planned to be involved to the center, the plans of individual care and protection targeted at them, the Coordination Committee is functioning and it is consisting of the representatives of UNICEF, Ministry of Internal Affairs, Deinstitutionalization and Child Protection Department of the Ministry of Education, State Committee for Family, Women and Children Affairs, Ministry of Labour and Social Protection of Population, concerning local departments, as well as of the representatives of the Ombudsman Office, Commissions on the issues and protection of rights of minors under the Executive Power Bodies and district police bodies.

In order to obtain legal knowledge by the staff newly admitted to the Head Medical Department of the Ministry of Justice of the Republic of Azerbaijan, conduction of compulsory trainings from 17.02.2014 to 10.04.2014 was considered. On the education program on 12.03.2014 delivering of the lecture on the topic “The Ombudsman Office serves to reliable protection of human and citizen’s rights and freedoms” was conducted by the staff members of the Office.

Besides this, the NPG member delivered lecture on the topic “The Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan and its role in protection of citizens rights and freedoms” during the trainings for candidates to the middle chief position at the Penitentiary Service of the Ministry of Justice that were conducted from 31.07.2014 to 24.09.2014.

The Head of the NPG participated at the Press Conference devoted to the presentation of the project titled “Inmates with disabilities and public support in provision of social rights of their families” of the Public Union “International Union of Persons with Disabilities” within the frames of the project of the Council of State Support to Non-Governmental Organizations under the President of the Republic of Azerbaijan.

This was noted that the main purpose of the project was learning the social problems faced by inmates with disabilities and their family members in need of special care, support to provision of their rights through state agencies, their

adaptation to the society after release of inmates with disabilities from prisons, as well as conduction of enlightening works with them in this direction.

The seminar – consultation on the topic “The Issues following from the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and activity of the National Preventive Mechanism” was held at the Police Academy with organization of the Ministry of Internal Affairs. The Head of the Department on Prevention of Torture of the Office of the Commissioner for Human Rights of the Republic of Azerbaijan, the head of the NPG delivered a speech at the event. He gave information about the mentioned Convention, the Optional Protocol to it, the activity of the National Preventive Mechanism (NPM) of Azerbaijan, and brought to the attention designation of the Ombudsman as an NPM according to the relevant Decree of the President of the Republic of Azerbaijan in order to ensure implementation of the OPCAT in our country. The lecturer gave information on conduction of visits by the NPG members to the places of deprivation of liberty, as well as to the temporary detention places, about the Law of the Republic of Azerbaijan on “Provision of the Rights and Freedoms of Individuals kept in the Detention Facilities” and the measures regarding its implementation, answered to the questions of participants of seminar-consultation, also of the virtual followers from police departments and offices of districts. Responsible staff from the Head Public Safety Department, Head Investigation and Examination Office of the Ministry of Internal Affairs, Police Academy participated at the seminar-consultation. Through virtual center installed in all cities and districts police departments and offices, the operational and service deputy heads and assistants of heads for personnel were involved to the seminar, exchange of opinions and experience were held via direct connection.

At the end considering the contribution of such events and meetings on legal enlightening of staff of the law-enforcement bodies, in more efficient protection of human rights, their regular conduction was proposed.

One of the important measures realized in legal enlightening sphere was training courses for young inmates on the topic “Social adaptation of persons released from the penitentiary institutions” that was held in the Penitentiary Institution No. 10 of the Ministry of Justice Penitentiary Service from September to October 2014, in the frames of the joint project titled “Social – psychological rehabilitation of persons released from penitentiaries” of the Ombudsman Office with the Public Union “Azerbaijani Youth Rights Defence Center”.

Alongside with the inmates, the representatives of state bodies and NGOs joined the courses. The participants were distributed numerous legal publications, including the publications and booklets titled “Social adaptation of persons released from confinement: the legislation”, “Successful way of career”, “The rights and duties of young inmates released from the penitentiaries”.

With the support of the European Commission according to the joint working plan signed by the UNICEF and the Commissioner for Human Rights of the Republic of Azerbaijan, the training on the topic “Child Rights Protection from the Juvenile Justice aspect: international and national standards” was conducted by the NPG members and attracted experts on child rights in Jalilabad, Ganja, Sheki and Guba regions. The Head of the Public Union “Legal World, Legal Promotion”, expert on child rights N. Guliyev was involved as an expert to these trainings.

86 persons in total, including 24 – from prosecutor bodies, 50 – from police bodies, as well as 12 staff members of the regional offices of the Ombudsman participated at the abovementioned trainings.

Besides the trainings the visits were carried out to Temporary Detention Places in over 20 police offices of the Ministry of Internal Affairs, Baku Investigation Isolator of the Ministry of Justice Penitentiary Service, Investigation Isolator No.2, Sheki Penitentiary Complex, Child Education Institution, Guba Special Vocational School of the Ministry of Education, Guba City Boarding School for Children Deprived of Parental Care, Boarding Schools placed in Lenkoran and Lerik cities, Boarding Schools No.3 and No 7 for Mentally Handicapped Children of the Ministry of Labour and Social Protection of Population, Orphanages No. 1 and No. 2 of the Baku City Executive Power and to the Orphanage under the jurisdiction of the Ganja City Executive Power, the situation of children kept there was investigated.

## **CHAPTER 5.**

### **PUBLIC RELATIONS**

As it is known, pursuant to the Constitutional Law, the Commissioner, in line with the directions of her activity, cooperates with local, regional and international organizations and the organization of public relations and international cooperation is one of the directions of the Azerbaijani NPM's activity.

In 2014 as well, information exchange was continued with state and municipal bodies, local civil society organizations, mass media, regional and international organizations, and NPMs of foreign countries; mutual participation at the events was ensured and joint events were held.

During the past period both local and international communities were regularly informed about the Azerbaijani NPM's activity.

In 2014, alongside the reports delivered at this or another event, in total 76 press releases were disseminated to the media, 36 of them dealing with visits, 40 talking about awareness raising and other events.

Altogether, 627 press releases were disseminated during 2009-2014 out of which 379 were about visits and 248 about awareness raising and other events.

Press releases, reports on the NPM's activities, information on the composition of the NPG, as well as relevant normative legal acts have been posted in the Azerbaijan and English languages in a special section created on the Commissioner's website. The reports, along with being posted on the Commissioner's official website, were also sent to the relevant state bodies.

As already mentioned, in 2014 the Azerbaijani NPM continued its efficient collaboration in the field of prevention of torture with the state agencies, civil society, NGOs and mass media.

## CHAPTER 6.

### INTERNATIONAL COOPERATION

In 2014 the as a National Preventive Mechanism the Commissioner paid special attention to international relations, existing cooperation in this sphere was realized more effectively. Expanding of relations of the Commissioner with the Council of Europe, OSCE, International Committee of Red Cross and other organizations, as well as with her foreign colleagues, sharing of opinions and experience was useful in the activity as an NPM. The international relations as an NPM were realized in the directions of organization of different meetings, joints events in the field of prevention of torture, participation of the Commissioner and the NPM Group members at the international events and mutual experience exchange.

Joint participation of Deputy Head of the National Institutions and Regional Mechanisms Section under UN Office of the High Commissioner for Human Rights Aferin Shahidzadeh with the members of the National Preventive Group of the Ombudsman in the visit to the Penitentiary Institution No. 10 of the Penitentiary Service of the Ministry of Justice in June 2014, is one of the examples of international cooperation of the Azerbaijani NPM. Within the frames of the conducted visit A. Shahidzadeh got acquainted with the work experience, visit methodology of the National Preventive Group.

The monitoring carried out by the NPG was highly appreciated by the expert.

Besides this, in compliance with the new rules of procedures of submission of reports adopted by the CAT in 2007, and to which the Republic of Azerbaijan has been a party to from 2011, the additions were included to the draft project of the fourth periodic report of the Republic of Azerbaijan on implementation of the “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” prepared by concerning working group guided by the Minister of the Foreign Affairs by the Decree No. 3050 of the President of the Republic of Azerbaijan “On Preparation and Submission of the Fourth Periodic Report of the Republic of Azerbaijan on implementation of the “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” and the information about ensuring the independence of the institute of the Commissioner for human rights and about the activity of the institute as a national preventive mechanism, as well as the complaints on torture and cruel treatment received and investigated by the institute was prepared and submitted to relevant addresses.

The NPG members this year participated at several events and meetings with foreign colleagues organized by international organizations, improved their useful knowledge and gained new skills.

The meeting was held with the Council of Europe Commissioner for Human Rights Nils Muižnieks at the Office of the Ombudsman. During the meeting this was emphasized that the Office of the Azerbaijani Ombudsman as accredited with the “A” Status by the UN National Human Rights Institutions International Coordination Committee in 2006, the Commissioner passed re-accreditation and kept this “A” Status in 2012 that proved once again its functioning independently and in full compliance to the Paris Principles in the field of human rights.

Responding to the question of the Commissioner regarding the arrested accused persons, this was emphasized that the NPG with a doctor in a visiting team carried out regular visits to corresponding institutions. This was mentioned that the Commissioner and the staff members repeatedly visited those persons, learned their detention conditions, treatment of them, their health status and their problems, in the frames of her competences the Ombudsman urged to appropriate bodies and assisted in solution of these problems.

At the meeting the staff members of the Ombudsman Office gave information on the demands of existing legislation on choosing the restraint measures in the country, brought to the attention conduction of enlightening events for different groups of population, as well as for detained and accused persons on implementation of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

This was also emphasized that considering the proposals of the Commissioner on improvement of the legislation, the Law of the Republic of Azerbaijan on “Provision of the Rights and Freedoms of Individuals kept in the Detention Facilities” was adopted and this Law regulated the relations on the provision of the rights of persons detained or arrested as provided by the Criminal – Procedural Code of the Republic of Azerbaijan.

N. Muižnieks expressed gratitude to the Commissioner for efficient meeting and comprehensive information.

As this was mentioned, the trips organized in the frames of international cooperation assume special importance and are importance from the standpoint of exchange of experience and gaining new knowledge and they were regularly realized during the reported year as well.

The deputy head of the Department on Prevention of Torture of the Ombudsman Office, the member of the Ombudsman’s National Preventive Group participated at the regional conference on the topic “Provision of Efficiency of Fight against Ill-Treatment” within the joint program of the EU and COE held on February 27, 2014, in Chisinau, Moldova Republic.

Delivering the speech at the event, the information was given on the measures realized by the Ombudsman of Azerbaijan as a National Preventive Mechanism against Torture, national legislation in this sphere, as well as Law of the Republic of Azerbaijan on “Provision of the Rights and Freedoms of Individuals kept in the Detention Facilities”, the measures realized for its

implementation, also about conduction of visits to penitentiary institutions. Bringing to the attention of the participants the experience of the Azerbaijani NPM, he also informed the participants of the conference about the recommendations and proposals put forward for improvement of detention conditions and answered to their questions.

Besides these, the head of the National Preventive Group participated at the final regional Conference on the topic “Provision of Efficiency of Fight against Ill-Treatment” within the joint program of the EU and COE, held on March 25, 2014, in Chisinau, Moldova Republic.

Additional meeting was held on Human dimension in Prevention of Torture with organization of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) on April, 2014, in Vienna.

The Head of the Department on Prevention of Torture of the Office of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, the head of the National Preventive Group participating at the event, gave information on the issues following from the demands of the OPCAT and the activity of the Ombudsman as a National Preventive Mechanism.

The representative of the Azerbaijani NPM gave information about conduction of visits by the members of NPG members to the places of deprivation of liberty, including temporary detention places, penitentiary institutions, psychiatric hospitals, social objects, Law of the Republic of Azerbaijan on “Provision of the Rights and Freedoms of Individuals kept in the Detention Facilities” and measures on its implementation.

In the frames of the visit he met with J. Mendez the UN Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, the Chair of the UN Sub-Committee on Prevention of Torture - M. Evans, the Secretary General of the Association for the Prevention of Torture – M. Tomson, held exchange of opinions.

The Head of the Department on Prevention of Torture and the head of the Ganja Regional Center of the Ombudsman, participated as NPG members at the First Forum of the South – Eastern European Countries on Prevention of Torture and at the Conference on Elimination of Torture, inhuman and ill – treatment and fighting against impunity that took place in November 2014, in Belgrade, Serbia Republic.

In both of the events, the participants were informed about the history of establishment of the NPM of Azerbaijan, the legislative acts regulating this sphere, conduction of monitoring, preparation of reports, measures carried out in this sphere, their questions were answered.

During the events such topics as carrying out of preventive measures in prevention of torture and inhuman treatment, international standards, minimum of behaviour rules, conduction of the dialogue with the state, participation of specialists in the places that a person can not leave at his/her will and other issues

were discussed, later the discussions in groups on subjects in different topics were conducted.

The members of the UN Sub-Committee on Prevention of Torture, representatives of Migration and Human Rights Department of the Council of Europe, European Committee against Torture, of more than 10 national preventive mechanisms of Europe, judges from local courts, civil society members participated at the mentioned event.



## CHAPTER 7.

### PROPOSALS AND RECOMMENDATIONS

The analysis of the activity of the Commissioner as NPM during the reporting period gives ground to evaluate it as efficient. This also can be evaluated as a logical result of the work realized directly by the NPM – preventive visits, legal enlightening events, as well as of fundamental legal reforms carried out in the country.

Improving the legal culture of society stipulates increasing the level of provision of the right to not only not be subjected to torture and other cruel, inhuman or degrading treatment or punishment, but other rights as well.

During the reporting period, and as a result of putting forward the numerous recommendations and proposals, the attitude of law-enforcement, punishment execution bodies and high ranked officials on the essence and provision of human rights has changed positively; legal thinking has formed a new meaning, and steps have been taken for improving the administration.

The Commissioner emphasizes the importance of the involvement of the society in the reintegration process into the society of persons deprived of liberty (resocialization) in order to ensure its successful realization. The Commissioner believes in the necessity to strengthen the correction of imprisoned persons using labour, religious and educational means.

It should be noted that the recommendations reflected in previous reports on the activity of the Commissioner as NPM but still pending for their implementation were repeatedly mentioned among the proposals.

For efficient protection of persons fully or partially deprived of liberty the Commissioner puts forward for 2014 the following proposals:

#### **To settle institutional issues:**

1. Promote application of alternative measures of restraints not related to arrest;
2. Ensure that information and images about detained or arrested persons are prevented from dissemination in mass media before issuance of the court decision;
3. Ensure that the MIA enhances the control over transferring persons detained in TDPs and arrested persons to Investigatory Isolator within 24 hours as provided by legislation;
4. Ensure that the MIA enhances the control over undergoing the preliminary medical examination of detained and arrested persons by a specialized doctor in the TDP within 24 hours;

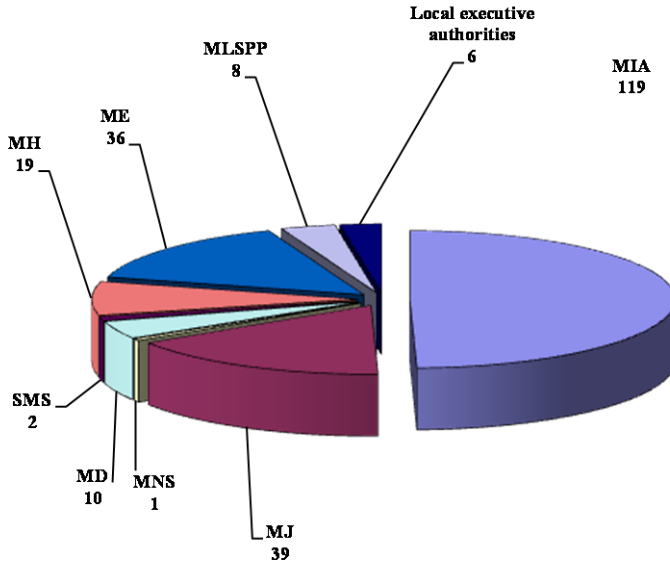
5. Ensure that the MIA improve registration in the journals of movement of relevant information regarding taking out and returning into cells of persons detained in the TDP;
6. Ensure that the MIA carries on education work on promotion of the Law of the Republic of Azerbaijan On Ensuring the Rights and Freedoms of Persons Held in Places of Detention among appropriate police staff;
7. Ensure that the MIA carries out measures for switching off the electric bulbs at night-time in the TDP and detention station for administratively arrested persons and installation there of night lighting;
8. Ensure that the MIA carries out measures for provision of daily newspapers for the persons detained in the TDP and detention station for administratively arrested persons;
9. Ensure that the MIA carries out measures for provision of material and hygienic means on the state account of the persons detained in the TDP and detention station for administratively arrested persons;
10. Provide telephone lines with access to intercity and mobile lines to TDPs in order to ensure the rights of detainees to communication;
11. Ensure that the MJ takes necessary actions to eliminate overcrowding in some PIs;
12. Ensure that the MJ accelerates construction of a new prison complex (PI) for women in Zabrat settlement of Baku city;
13. Ensure that the MJ accelerates construction of Correctional institution building for juveniles in Zabrat settlement of Baku city;
14. Ensure that the MJ accelerates construction of a new prison complex in Umbaki settlement;
15. Ensure that the MJ accelerates construction of mixed regime PI in Ganja;
16. Ensure that the MJ accelerates construction of new facilities as the buildings of the Medical Institution are old and some of them are in unusable condition;
17. Ensure that the MJ provides the MSU of PI No. 5 with a building suitable for use;
18. Ensure that the MJ enhances the control over the activity of PCS;
19. Ensure that the MJ carries out measures on organization of the wards for stationary treatment in the medical unit of the Investigatory Isolator No. 3 of the PS;
20. Ensure that the MJ enhances the control over application of disciplinary measures and special means only if necessary and enhancing of control by the PS over strict documentation in these cases and taking explanation from a detainee without fail;
21. Ensure that the MJ carries out measures on improving the quality of rendered legal assistance particularly in districts out of the city, as well as on increasing numbers of legal advice offices and lawyers;

22. Ensure that the MJ carries out measures on renewing the relevant infrastructure considering overcrowding and insufficient conditions in coaches for detainee escort from PIs to TDPs (and backwards);
23. Ensure that the MJ adjusts waiting rooms in some of the courts to modern requirements;
24. Ensure that the MJ puts proposals before the Cabinet of Ministers of the Republic of Azerbaijan on increasing the financial means considered for detention of inmates and detainees (including nutrition, medical service and medicine supply);
25. Ensure that the MJ establishes new production sites for involvement of convicted persons to socially useful work considering importance of inmates' rehabilitation through targeting their physical labour force to healthy work;
26. Ensure that the MJ more efficiently carries out the activities on ensuring that convicted persons serve their sentences in institutions close to their home;
27. Ensure that the MJ carries out relevant activities to improve the situation of water supply in some institutions;
28. Ensure that the MNS carries on education work conducted in the relevant fields and closely involves the NPM in such activities;
29. Ensure that the MNS monitors the enjoyment of psychologist aid by detainees in the TDP and Investigatory Isolator;
30. Ensure that the MD makes efforts to establish more constructive cooperation between the NPM and the new management of the Military Police Department;
31. Ensure that the MD accelerates repair work in the institutions closed for not meeting existing standards;
32. Ensure that the MD starts building a guardroom and one-person cell in the Disciplinary Military Unit No. N as provided in Article 149 of the EPC;
33. Ensure that the MD carries out education work jointly with NPG for staff of the Disciplinary Military Unit No. N and Guardrooms;
34. Ensure that the MH makes efforts to establish more constructive cooperation with the NPM;
35. Ensure that MH carries out measures on elimination of overcrowding in the Gerontology Department of the Republic Psychiatric Hospital No. 1;
36. Ensure that the MH prepares general rules considering international experience;
37. Ensure that the MH carries out measures for movement of approximately 350 persons detained in the Republic Psychiatric Hospital No. 1 who are in no need of stationary treatment and are staying for a long time to not lose social connections to appropriate social institutions under the jurisdiction of the MLSPP;
38. Ensure that the MH carries on education work for the staff of the Salyan Inter-district (Interregional) Psychiatric Hospital;

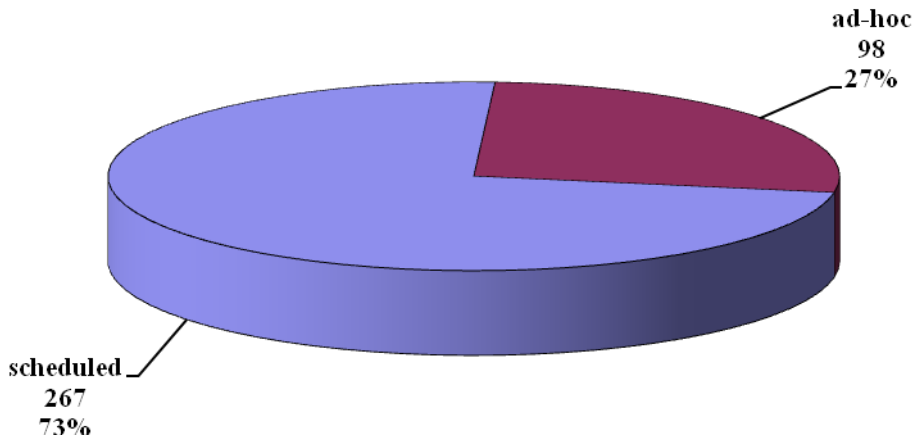
39. Ensure that the MH carries on the prophylactic measures against infectious diseases (tuberculosis and others) towards persons detained in the Salyan Inter-district (Interregional) Psychiatric Hospital;
40. Ensure that the ME takes actions to increase the salaries of the personnel working in the relevant establishments;
41. Ensure that the ME makes efforts to improve the cooperation with the NPM;
42. Ensure that the ME conducts investigation of the situation with improving material conditions in Guba Specialized Professional School and the cases mentioned in the corresponding part of the report;
43. Ensure that the ME carries out refurbishment works in the relevant institutions, as well as improves the equipment of those institutions;
44. Ensure that the MLSPP makes efforts to establish more constructive cooperation with the NPM;
45. Ensure that the MLSPP continues the improvement of the material condition of the relevant establishments;
46. Ensure that MLSPP makes efforts for improving its activities on implementation of obligations of the ministry in compliance with the Law of the Republic of Azerbaijan on “Social Adaptation of persons released from penal institutions”;
47. Ensure that the MLSPP works out the mechanism of establishing the asylums and resource centres for persons released from penal institutions but having no permanent living place, as well as on the solution of their employment problems;
48. Ensure that the MLSPP makes efforts for improvement in the process of determination of disability status for inmates;
49. Ensure that the MLSPP makes efforts to increase the number of medical personnel and the level of service, considering the inappropriate state of medical treatment and the lack of medications in some institutions.
50. Ensure that the State Migration Service carries out joint education work for the staff of the Detention Centre for Illegal Migrants in Yevlakh city.

Static Data

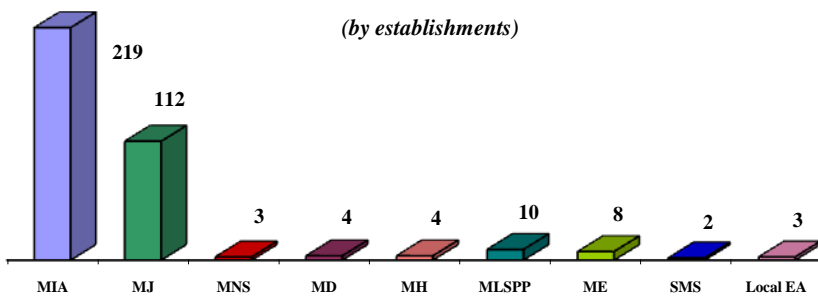
Diagram 1. Number of establishments visited by the NPM



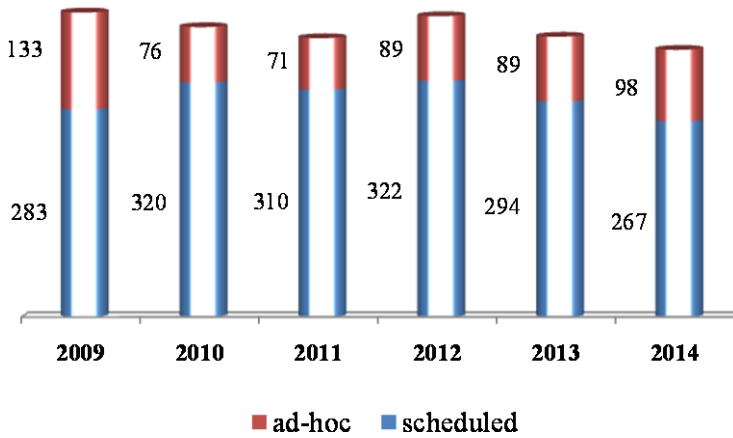
*Diagram 2. Visits conducted by the NPM in 2014*



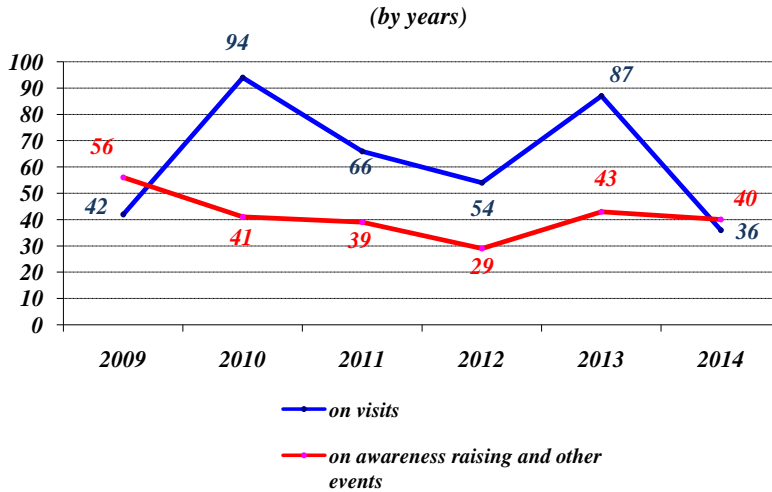
*Diagram 3. Visits conducted by the NPM in 2014*



**Diagram 4. Visits by the NPM**  
(by years)



**Diagram 5. Press releases by the NPM**



**Optional Protocol to the Convention against Torture and other Cruel,  
Inhuman or Degrading Treatment or Punishment**

**PREAMBLE**

The States Parties to the present Protocol,

Reaffirming that torture and other cruel, inhuman or degrading treatment or punishment are prohibited and constitute serious violations of human rights,

Convinced that further measures are necessary to achieve the purposes of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the Convention) and to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment,

Recalling that articles 2 and 16 of the Convention oblige each State Party to take effective measures to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction,

Recognizing that States have the primary responsibility for implementing those articles, that strengthening the protection of people deprived of their liberty and the full respect for their human rights is a common responsibility shared by all and that international implementing bodies complement and strengthen national measures,

Recalling that the effective prevention of torture and other cruel, inhuman or degrading treatment or punishment requires education and a combination of various legislative, administrative, judicial and other measures,

Recalling also that the World Conference on Human Rights firmly declared that efforts to eradicate torture should first and foremost be concentrated on prevention and called for the adoption of an optional protocol to the Convention, intended to establish a preventive system of regular visits to places of detention,

Convinced that the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment can be strengthened by non-judicial means of a preventive nature, based on regular visits to places of detention, Have agreed as follows:



## **PART I**

### **General principles**

#### **Article 1**

The objective of the present Protocol is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

#### **Article 2**

1. A Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture (hereinafter referred to as the Subcommittee on Prevention) shall be established and shall carry out the functions laid down in the present Protocol.

2. The Subcommittee on Prevention shall carry out its work within the framework of the Charter of the United Nations and shall be guided by the purposes and principles thereof, as well as the norms of the United Nations concerning the treatment of people deprived of their liberty.

3. Equally, the Subcommittee on Prevention shall be guided by the principles of confidentiality, impartiality, non-selectivity, universality and objectivity.

4. The Subcommittee on Prevention and the States Parties shall cooperate in the implementation of the present Protocol.

#### **Article 3**

Each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter referred to as the national preventive mechanism).

#### **Article 4**

1. Each State Party shall allow visits, in accordance with the present Protocol, by the mechanisms referred to in articles 2 and 3 to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (hereinafter referred to as places of detention). These visits shall be undertaken with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment.

2. For the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.

## **PART II**

### **Subcommittee on Prevention**

#### **Article 5**

1. The Subcommittee on Prevention shall consist of ten members. After the fiftieth ratification of or accession to the present Protocol, the number of the members of the Subcommittee on Prevention shall increase to twenty-five.

2. The members of the Subcommittee on Prevention shall be chosen from among persons of high moral character, having proven professional experience in the field of the administration of justice, in particular criminal law, prison or police administration, or in the various fields relevant to the treatment of persons deprived of their liberty.

3. In the composition of the Subcommittee on Prevention due consideration shall be given to equitable geographic distribution and to the representation of different forms of civilization and legal systems of the States Parties.

4. In this composition consideration shall also be given to balanced gender representation on the basis of the principles of equality and non-discrimination.

5. No two members of the Subcommittee on Prevention may be nationals of the same State.

6. The members of the Subcommittee on Prevention shall serve in their individual capacity, shall be independent and impartial and shall be available to serve the Subcommittee on Prevention efficiently.

#### **Article 6**

1. Each State Party may nominate, in accordance with paragraph 2 of the present article, up to two candidates possessing the qualifications and meeting the requirements set out in article 5, and in doing so shall provide detailed information on the qualifications of the nominees.

2.

(a) The nominees shall have the nationality of a State Party to the present Protocol;

(b) At least one of the two candidates shall have the nationality of the nominating State Party;

(c) No more than two nationals of a State Party shall be nominated;

(d) Before a State Party nominates a national of another State Party, it shall seek and obtain the consent of that State Party.

3. At least five months before the date of the meeting of the States Parties during which the elections will be held, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall submit a list, in alphabetical order, of all persons thus nominated, indicating the States Parties that have nominated them.

### **Article 7**

1. The members of the Subcommittee on Prevention shall be elected in the following manner:

(a) Primary consideration shall be given to the fulfilment of the requirements and criteria of article 5 of the present Protocol;

(b) The initial election shall be held no later than six months after the entry into force of the present Protocol;

(c) The States Parties shall elect the members of the Subcommittee on Prevention by secret ballot;

(d) Elections of the members of the Subcommittee on Prevention shall be held at biennial meetings of the States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Subcommittee on Prevention shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of the States Parties present and voting.

2. If during the election process two nationals of a State Party have become eligible to serve as members of the Subcommittee on Prevention, the candidate receiving the higher number of votes shall serve as the member of the Subcommittee on Prevention. Where nationals have received the same number of votes, the following procedure applies:

(a) Where only one has been nominated by the State Party of which he or she is a national, that national shall serve as the member of the Subcommittee on Prevention;

(b) Where both candidates have been nominated by the State Party of which they are nationals, a separate vote by secret ballot shall be held to determine which national shall become the member;

(c) Where neither candidate has been nominated by the State Party of which he or she is a national, a separate vote by secret ballot shall be held to determine which candidate shall be the member.

### **Article 8**

If a member of the Subcommittee on Prevention dies or resigns, or for any cause can no longer perform his or her duties, the State Party that nominated the

member shall nominate another eligible person possessing the qualifications and meeting the requirements set out in article 5, taking into account the need for a proper balance among the various fields of competence, to serve until the next meeting of the States Parties, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

### **Article 9**

The members of the Subcommittee on Prevention shall be elected for a term of four years. They shall be eligible for re-election once if renominated. The term of half the members elected at the first election shall expire at the end of two years; immediately after the first election the names of those members shall be chosen by lot by the Chairman of the meeting referred to in article 7, paragraph 1 (d).

### **Article 10**

1. The Subcommittee on Prevention shall elect its officers for a term of two years. They may be re-elected.

2. The Subcommittee on Prevention shall establish its own rules of procedure. These rules shall provide, inter alia, that:

(a) Half the members plus one shall constitute a quorum;

(b) Decisions of the Subcommittee on Prevention shall be made by a majority vote of the members present;

(c) The Subcommittee on Prevention shall meet in camera.

3. The Secretary-General of the United Nations shall convene the initial meeting of the Subcommittee on Prevention. After its initial meeting, the Subcommittee on Prevention shall meet at such times as shall be provided by its rules of procedure. The Subcommittee on Prevention and the Committee against Torture shall hold their sessions simultaneously at least once a year.

## **PART III**

### **Mandate of the Subcommittee on Prevention**

#### **Article 11**

1. The Subcommittee on Prevention shall:

(a) Visit the places referred to in article 4 and make recommendations to States Parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;

(b) In regard to the national preventive mechanisms:

- (i) Advise and assist States Parties, when necessary, in their establishment;
  - (ii) Maintain direct, and if necessary confidential, contact with the national preventive mechanisms and offer them training and technical assistance with a view to strengthening their capacities;
  - (iii) Advise and assist them in the evaluation of the needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
  - (iv) Make recommendations and observations to the States Parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;
- (c) Cooperate, for the prevention of torture in general, with the relevant United Nations organs and mechanisms as well as with the international, regional and national institutions or organizations working towards the strengthening of the protection of all persons against torture and other cruel, inhuman or degrading treatment or punishment.

## **Article 12**

In order to enable the Subcommittee on Prevention to comply with its mandate as laid down in article 11, the States Parties undertake:

- (a) To receive the Subcommittee on Prevention in their territory and grant it access to the places of detention as defined in article 4 of the present Protocol;
- (b) To provide all relevant information the Subcommittee on Prevention may request to evaluate the needs and measures that should be adopted to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
- (c) To encourage and facilitate contacts between the Subcommittee on Prevention and the national preventive mechanisms;
- (d) To examine the recommendations of the Subcommittee on Prevention and enter into dialogue with it on possible implementation measures.

## **Article 13**

1. The Subcommittee on Prevention shall establish, at first by lot, a programme of regular visits to the States Parties in order to fulfil its mandate as established in article 11.

2. After consultations, the Subcommittee on Prevention shall notify the States Parties of its programme in order that they may, without delay, make the necessary practical arrangements for the visits to be conducted.

3. The visits shall be conducted by at least two members of the Subcommittee on Prevention. These members may be accompanied, if needed, by experts of demonstrated professional experience and knowledge in the fields covered by the present Protocol who shall be selected from a roster of experts

prepared on the basis of proposals made by the States Parties, the Office of the United Nations High Commissioner for Human Rights and the United Nations Centre for International Crime Prevention. In preparing the roster, the States Parties concerned shall propose no more than five national experts. The State Party concerned may oppose the inclusion of a specific expert in the visit, whereupon the Subcommittee on Prevention shall propose another expert.

4. If the Subcommittee on Prevention considers it appropriate, it may propose a short follow-up visit after a regular visit.

#### **Article 14**

1. In order to enable the Subcommittee on Prevention to fulfil its mandate, the States Parties to the present Protocol undertake to grant it:

(a) Unrestricted access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;

(b) Unrestricted access to all information referring to the treatment of those persons as well as their conditions of detention;

(c) Subject to paragraph 2 below, unrestricted access to all places of detention and their installations and facilities;

(d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the Subcommittee on Prevention believes may supply relevant information;

(e) The liberty to choose the places it wants to visit and the persons it wants to interview.

2. Objection to a visit to a particular place of detention may be made only on urgent and compelling grounds of national defence, public safety, natural disaster or serious disorder in the place to be visited that temporarily prevent the carrying out of such a visit. The existence of a declared state of emergency as such shall not be invoked by a State Party as a reason to object to a visit.

#### **Article 15**

No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the Subcommittee on Prevention or to its delegates any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

#### **Article 16**

1. The Subcommittee on Prevention shall communicate its recommendations and observations confidentially to the State Party and, if relevant, to the national preventive mechanism.

2. The Subcommittee on Prevention shall publish its report, together with any comments of the State Party concerned, whenever requested to do so by that State Party. If the State Party makes part of the report public, the Subcommittee on Prevention may publish the report in whole or in part. However, no personal data shall be published without the express consent of the person concerned.

3. The Subcommittee on Prevention shall present a public annual report on its activities to the Committee against Torture.

4. If the State Party refuses to cooperate with the Subcommittee on Prevention according to articles 12 and 14, or to take steps to improve the situation in the light of the recommendations of the Subcommittee on Prevention, the Committee against Torture may, at the request of the Subcommittee on Prevention, decide, by a majority of its members, after the State Party has had an opportunity to make its views known, to make a public statement on the matter or to publish the report of the Subcommittee on Prevention.

## **PART IV**

### **National preventive mechanisms**

#### **Article 17**

Each State Party shall maintain, designate or establish, at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. Mechanisms established by decentralized units may be designated as national preventive mechanisms for the purposes of the present Protocol if they are in conformity with its provisions.

#### **Article 18**

1. The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.

2. The States Parties shall take the necessary measures to ensure that the experts of the national preventive mechanism have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country.

3. The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.

4. When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights.

#### **Article 19**

The national preventive mechanisms shall be granted at a minimum the power:

(a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;

(b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;

(c) To submit proposals and observations concerning existing or draft legislation.

### **Article 20**

In order to enable the national preventive mechanisms to fulfil their mandate, the States Parties to the present Protocol undertake to grant them:

(a) Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;

(b) Access to all information referring to the treatment of those persons as well as their conditions of detention;

(c) Access to all places of detention and their installations and facilities;

(d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the national preventive mechanism believes may supply relevant information;

(e) The liberty to choose the places they want to visit and the persons they want to interview;

(f) The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

### **Article 21**

1. No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the national preventive mechanism any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

2. Confidential information collected by the national preventive mechanism shall be privileged. No personal data shall be published without the express consent of the person concerned.

### **Article 22**

The competent authorities of the State Party concerned shall examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.



### **Article 23**

The States Parties to the present Protocol undertake to publish and disseminate the annual reports of the national preventive mechanisms.

## **PART V**

### **Declaration**

#### **Article 24**

1. Upon ratification, States Parties may make a declaration postponing the implementation of their obligations under either part III or part IV of the present Protocol.

2. This postponement shall be valid for a maximum of three years. After due representations made by the State Party and after consultation with the Subcommittee on Prevention, the Committee against Torture may extend that period for an additional two years.

## **PART VI**

### **Financial provisions**

#### **Article 25**

1. The expenditure incurred by the Subcommittee on Prevention in the implementation of the present Protocol shall be borne by the United Nations.

2. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Subcommittee on Prevention under the present Protocol.

#### **Article 26**

1. A Special Fund shall be set up in accordance with the relevant procedures of the General Assembly, to be administered in accordance with the financial regulations and rules of the United Nations, to help finance the implementation of the recommendations made by the Subcommittee on Prevention after a visit to a State Party, as well as education programmes of the national preventive mechanisms.

2. The Special Fund may be financed through voluntary contributions made by Governments, intergovernmental and non-governmental organizations and other private or public entities.

## **PART VII**

### **Final provisions**

#### **Article 27**

1. The present Protocol is open for signature by any State that has signed the Convention.

2. The present Protocol is subject to ratification by any State that has ratified or acceded to the Convention. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Convention.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

#### **Article 28**

1. The present Protocol shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession, the present Protocol shall enter into force on the thirtieth day after the date of deposit of its own instrument of ratification or accession.

#### **Article 29**

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

#### **Article 30**

No reservations shall be made to the present Protocol.

#### **Article 31**

The provisions of the present Protocol shall not affect the obligations of States Parties under any regional convention instituting a system of visits to places of detention. The Subcommittee on Prevention and the bodies established under such regional conventions are encouraged to consult and cooperate with a view to

avoiding duplication and promoting effectively the objectives of the present Protocol.

### **Article 32**

The provisions of the present Protocol shall not affect the obligations of States Parties to the four Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 8 June 1977, nor the opportunity available to any State Party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

### **Article 33**

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the present Protocol and the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act or situation that may occur prior to the date on which the denunciation becomes effective, or to the actions that the Subcommittee on Prevention has decided or may decide to take with respect to the State Party concerned, nor shall denunciation prejudice in any way the continued consideration of any matter already under consideration by the Subcommittee on Prevention prior to the date on which the denunciation becomes effective.

3. Following the date on which the denunciation of the State Party becomes effective, the Subcommittee on Prevention shall not commence consideration of any new matter regarding that State.

### **Article 34**

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting at the conference shall be submitted by the Secretary-General of the United Nations to all States Parties for acceptance.

2. An amendment adopted in accordance with paragraph 1 of the present article shall come into force when it has been accepted by a two-thirds majority

of the States Parties to the present Protocol in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment that they have accepted.

### **Article 35**

Members of the Subcommittee on Prevention and of the national preventive mechanisms shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions. Members of the Subcommittee on Prevention shall be accorded the privileges and immunities specified in section 22 of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, subject to the provisions of section 23 of that Convention.

### **Article 36**

When visiting a State Party, the members of the Subcommittee on Prevention shall, without prejudice to the provisions and purposes of the present Protocol and such privileges and immunities as they may enjoy:

- (a) Respect the laws and regulations of the visited State;
- (b) Refrain from any action or activity incompatible with the impartial and international nature of their duties.

### **Article 37**

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States.

**DECLARATION**  
**of the Republic of Azerbaijan with respect to the Optional Protocol**  
**to the Convention against Torture and other Cruel,**  
**Inhuman or Degrading Treatment or Punishment**

The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Protocol in the territories occupied by the Republic of Armenia until these territories are liberated from occupation (the schematic map of the occupied territories is enclosed).