



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

**REPORT**

**ON THE ACTIVITY OF  
THE NATIONAL PREVENTIVE MECHANISM  
AGAINST TORTURE**

**(2015)**

**Baku 2016**

This report describes the relevant work of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan functioning in a capacity of national preventive mechanism (NPM) as endorsed in the Optional Protocol to the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN OPCAT) as well as recommendations and suggestions put forward in 2015.

In this report and in general, during the process of carrying out NPM functions by the Commissioner, recommendations and suggestions made by the UN Subcommittee on Prevention of Torture (SPT) and the European Committee for the Torture and Inhuman or Degrading Treatment or Punishment (CPT), also those made to periodic reports of Azerbaijan by the Working Group on Universal Periodic Review (UPR) of the UN Human Rights Council (HRC) were considered.

Statistical data and the OPCAT are attached to the report.

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## FOREWORD

The ratification of the UNCAT and establishment of the NPM in Azerbaijan as stated in the Optional Protocol served to support the international standards for better promotion of human rights by the State.

The Office of the Commissioner for Human Rights (Ombudsman) was also imposed serious responsibilities by designation of the Ombudsman to function as a national preventive mechanism.

The fulfillment of duties driven from that decision, which was a continuation of legal reforms and statehood process in the country turned to one of the new key directions of the activity of the Commissioner.

Like every year, in 2015, the Commissioner also ensured the further improvement and development of her activity as an NPM at higher level.

Mutual cooperation of the Commissioner with state authorities, civil society organizations, mass media, international organizations and foreign ombudspersons as an NPM, from the very beginning, ensured Ombudsman's successful work, building constructive dialogues and organization of necessary support, useful discussions, training sessions and exchange of experience.

A noteworthy fact is that the Azerbaijani Ombudsman Office has grown distinctive reputation among the relevant specialized institutions, the society and international organizations due to its contributions to the improvement of the preventive work against torture in the country from the legislative and institutional perspectives.

The current report, which covers the activity of the Azerbaijani NPM in 2015, compiles the work undertaken in the capacity of NPM, its preventive visits and their outcomes, recommendations as well as suggestions and their implementation status.

We do hope the recommendations and suggestions given in this report will give its contributions to the improvement of various directions in the relevant activity.

We thank you for the suggestions to be sent to the report in beforehand.

**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 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

**CPO** – city police office

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

**CC** – The 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** – a person deprived of his/her liberty

**DPD** – district police department

**DPO** – district police office

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

**HIV** – Human Immunodeficiency Virus

**IDR** – Internal Disciplinary Rules of Penitentiary Institutions approved by the Plenary Board of the Ministry of Justice

**MD** –Ministry of Defense 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 Labor 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** –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

**SSS** –State Security Service of the Republic of Azerbaijan

**Subcommittee** – A 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

**UN HRC**-Universal Periodic Review Working Group

**UPR**-Universal Periodic Review

## CHAPTER 1.

### MANDATE OF THE NATIONAL PREVENTIVE MECHANISM BASED ON THE OPCAT

#### 1.1. Requirements of the OPCAT

In 2015, the Commissioner continued the relevant work as an institution, designated to function as a national preventive mechanism (NPM) provided by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

First this it should be mentioned that the main objectives of the OPCAT<sup>1</sup> is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty,<sup>2</sup> in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. The OPCAT underlines the importance of a constructive dialogue and specifies that not an approach based on reaction, but preventive approach should be applied to the relations. The innovativeness of the OPCAT also appears in envisaging no new rights or standards or restoration of the 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 of the UN against Torture established at the international level, 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:

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<sup>1</sup> Which was adopted with the UN General Assembly Resolution No. 57/199 dated 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 purpose 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 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;

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

In order to enable the national preventive mechanisms to fulfill 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

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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)



as the institution to perform the functions of the NPM according to the OPCAT.<sup>7</sup>

New and quite serious responsibilities undertaken by the Commissioner specified more efficient and higher quality activities which resulted in the expansion of her mandate, as well as staff's competence. By making additions and amendments to the Constitutional Law<sup>8</sup> the Commissioner's powers, as well as independence have been complied with the level of the authority of the NPM as provided for by the OPCAT, also the NPG has been created, as well as obligations, rights and guarantees of the NPG members have been enacted to ensure the Commissioner's activities as an NPM, based on the principles of transparency.

According to the Constitutional Law, the Commissioner in fulfillment their duties as the NPM, have the right to have access, at anytime, without hindrance and prior notification, to police stations, temporary detention places (TDPs), investigation isolators (II), penitentiary facilities, military detention places, psychiatric institutions and other places where detainees are not permitted to leave at will, meet and interview detained person, 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>

Within a last year, legislative acts were amended, as well as the provisions specifying the Commissioner's and NPG's aforementioned powers were incorporated into the relevant normative legal acts to ensure the NPM's smooth operation.<sup>11</sup>

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<sup>7</sup> 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)

<sup>8</sup> Constitutional Law 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> 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

This should also be noted that the recommendations and suggestions made to the periodic reports of the Azerbaijani Government under the review process by the UN HRC Universal Periodic Review (UPR) Working Group, as well as by CAT and APT were considered to ensure efficient activity of the Ombudsman as an NPM as specified by the OPCAT.<sup>12</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 advocacy – with the purpose of promoting the prevention of torture, 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, 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

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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 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> UN Human Rights Council, Report of the Working Group on the Universal Periodic Review: Azerbaijan, 5 July 2013, A/HRC/24/13, para.103.

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, recommendations and suggestions made are reflected in the Commissioner's special reports. The reports of the previous years were translated and published in both the Azerbaijani and English languages. Up to two hundred recommendations and suggestions aimed at improving the current legislation, as well as institutional issues have been enumerated in the reports submitted so far.

## CHAPTER 2

### ACTIVITY OF NPM AND PREVENTIVE VISITS

#### 2.1. Organization of Preventive Visits

Evidently, 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>13</sup>

Thus, pursuant to the para. (a) of Article 20 of the OPCAT in order to enable the national preventive mechanisms to fulfill their mandate, the State parties to the Protocol undertake to grant them with 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.

Such information is received on the basis of motions of the Commissioner to the related bodies and visits are conducted in accordance with the annual plan prepared based on the information submitted by those relevant bodies. If it is deemed necessary, at the end of the year, the information is updated for the upcoming year through verification with the corresponding bodies.

Within the activity of NPM, all preventive visits undertaken are conducted without making prior notice, which may be divided into two groups: scheduled visits and *ad-hoc* visits.

##### **2.1.1. Scheduled visits**

The scheduled visits are conducted according to the annual schedule approved by the Commissioner. The draft of the annual schedule is discussed at the meeting attended by the NPG members, the outcomes are drawn up to a report and accepted schedule is submitted to the Commissioner for approval. Non-disclosure of a schedule is necessary for effectiveness of the visits. Therefore, its confidentiality is ensured by the NPG members.

The decision upon the succession 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

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<sup>13</sup> OPCAT, Article 20

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 size and specifications of the establishment, the number of the persons detained there, as well as the number of NPG members involved in that particular visit.

### ***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 working days and covers collecting necessary information, defining the purpose of the visit and establishment of a visiting group.

*During the preparation process*, collection of necessary information, including those obtained at the previous visits, as well as the information received from other sources, complaints addressed to the Commissioner, and the information obtained from mass media are analyzed, 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, preliminary talk is held with the administration 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 administration, the buildings of the establishment are visited. During this the material condition of the establishment, including size, capacity and the condition 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.

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 organize 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. Simultaneously, it is informed that the administration of this facility 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 2015, the NPG conducted 329 visits, out of which 250 were scheduled and 79 were *ad-hoc* visits.<sup>14</sup> Thus, accordingly, 173 visits were

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<sup>14</sup> See Annex 1

carried out to the facilities of the MIA, 104 to the facilities of the MJ, 2 to the facilities of the SSS, 2 to the facilities of the MD, 3 to the facilities of the SMS, 7 to the facilities of the MH, 6 to the facilities of the MLSPP, 27 to the facilities of the ME, and 35 to the facilities of local executive authorities.<sup>15</sup>

During the visits, private talks were conducted with 440 detainees in TDPs, 1012 detainees in II-s and 14 persons detained in penitentiary institutions, and over 500 persons held in other facilities. In general, awareness talks were held with 1952 detainees in places of deprivation of liberty, as well as more than 450 staff members of those facilities.

As in previous years, relevant recommendations and suggestions were submitted to the administrations of the facilities concerned and to the relevant ministries to eliminate the drawbacks revealed during visits conducted in 2015 and to improve general custody conditions. Accordingly, the Commissioner was informed about the status of the implementation of each recommendation.

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

There are 119 facilities under the subordination of the Ministry of Internal Affairs (MIA).<sup>16</sup> In 2015, the NPG conducted 173 scheduled and *ad-hoc* visits to the temporary detention places (TDPs) and police units (PU).<sup>17</sup> During these visits private conversations were held with 440 detainees; their detention conditions were assessed, the possibility of their subjection or not to ill-treatment during the period of detention or arrest were investigated. The possibility of subjection to ill-treatment of persons brought to the police custody, in this or other manner was also a subject of investigation.

In 2015 as well, the measures were taken for bringing the infrastructures of TDPs of the MIA in comply with international standards and for better ensuring human rights in these facilities were continued.

Simultaneously, measures were taken for modernization of the infrastructure, renewal of the material-technical basis, improvement of material conditions in the TDPs were progressed. Besides, the relevant measures were undertaken for further improving the treatment of detained persons, elimination of the revealed delinquencies and their reasons, the control over the TDPs was strengthened.

The recommendations and suggestions given during preventive visits conducted by the Commissioner in a capacity of NPM as provided by the

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<sup>15</sup> See Annex 1, Diagram 3

<sup>16</sup> See Annex 1, Diagram 1

<sup>17</sup> See Annex 1, Diagram 3

OPCAT, were based on CAT, SPT and CPT reports, along with the national laws.

As a consequence of the visits undertaken according to the OPCAT and the previously given suggestions, during 2015, it was found that new TDPs were constructed in Yevlakh, Naftalan, Goranboy and Mingachevir city, repair and renovation works were completed in Nasimi district of Baku and Shirvan city police departments (CPDs) TDPs, whereas similar works in TDPs of Yasamal district of Baku, Sabirabad and Gabala cities' police bodies are still continuing to bring the custody conditions in comply with international norms and standards.

Newly constructed and repaired TDPs were supplied with bathrooms, investigation rooms, medical units, prayer rooms, visiting and other rooms.

Several norms based on international standards were applied into practice. Thus, according to the Rules on rendering of medical and psychological care to detained or arrested persons, as well as their detention in medical facilities affirmed by the Decision No. 67 of the Cabinet of Ministers dated April 18, 2013 physician perform medical examination without participation of others (excluding security reasons). In exceptional circumstances, such examination is conducted with participation of a police officer to ensure security of physician and to avoid that the detainee causes harm to himself.

With regard to this question, according to the response letters by the MIA, revealed drawbacks were eliminated; all regional police bodies were supplied with books on medical records; also separate team of physicians was allocated to regional health institutions to take preliminary medical examination; furthermore, the necessary measures were undertaken jointly by the MIA and Ministry of Health (MH).

Pursuant to the legislation, before placement in TDPs, the detained and arrested persons are subjected to medical examination and personal hygiene; as well as information about refusal from medical requests or aid is officially recorded. According to the medical certificate, the detained persons, whose detention is not considered advisable, are sent under the escort to the health institutions of MH for medical treatment. The successful relevant precedents are made.

Important issues like strict adherence to rule of law and ensuring human rights and freedoms in the process of bringing in, detention and application of disciplinary measures in police custody were kept under the control by MIA based on the NPM's recommendations and suggestions.

69 TDPs out of 72 throughout the country were equipped with safety alarms and surveillance cams to strengthen the control over behaviors of the police officers and the detained persons.



Consequently, it was detected that in most TDPs custody conditions were brought into compliance with international standards; new TDPs were constructed; the number of claims of cruel treatment during preliminary detention decreased; relevant normative legal acts were improved in terms of human rights; the control over detention places were strengthened; as well as other positive developments have been achieved.

In reference to the drawbacks revealed, Commissioner's motions to MIA have been focused attention on; the shortcomings were eliminated; guilty persons were punished under the legislation and the police bodies were informed accordingly, which is a contribution to an efficient cooperation.

In the course of the visit to the **TDP of Narimanov District Police Office (DPO)** conducted under the OPCAT and Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, all cells in the TDP as well as relevant registration books were checked. The administration of the respective facility and TDP were informed about shortcomings revealed, including the lack of provision of hygienic cleaning tools for the detained persons, violation of the regularity of sanitarian-cleaning days and deficiencies in the documentation. Suggestions were given for the elimination of them and improvement of the documentation at the level of the facility.

During the visit held to the **Narimanov DPO PU No. 17 and 18**, no detained persons found there and the records in the registration book was not done properly. Furthermore, the facilities' administration were given relevant suggestions in relation to the effective ensuring rights of persons, those who were brought to the police custody and even those, who were considered as suspects.

Scheduled visits were held to **Nasimi DPO and PU No. 22** of the respective Office. The purpose of the visit was to check the custody condition, treatment and documentation in the PU and TDP.

During the visit to the TDP, private meetings were held with the detained persons and they did not complain of the custody conditions and treatment in the detention facility.

Relevant registration books of the detention facility were checked and deficiencies in the documentation, in provision of the detained persons with hygienic cleaning tools and in taking preliminary medical examination of those brought to the facility, were brought to the attention of the facility administration, which was also given appropriate suggestions for their elimination and improvement of the documentation.

During the visit to the PU No. 22 no detained persons were there. In the course of the visit, it was also found the relevant records in the registration

book were not kept properly; there were rough copies in there; so, the police facility' administration was given relevant recommendations in the respect of effective ensuring rights of persons who were brought to the police custody and even those, who were considered as suspects.

The purpose of the visit conducted to **the Yasamal DPO TDP** was to inspect the general custody conditions and treatment and to check the state of ensuring the rights of the detained persons recognized by the Law of the Republic of Azerbaijan on the Rights and Freedoms of Individuals Kept in Detention Facilities and Internal Disciplinary Rules (IDR) of Temporary Detention Places and the relevant records.

For the purpose of inspection of the detention condition, TDP cells were monitored; nutrition, access to drinking hot and cold water, medical care, walking, meeting and phone services, the records on releases and parcel service were inspected.

NPG members held private and confidential conversations with over 15 persons detained in those facilities. Those detainees did not complain of their detention conditions and treatment. Moreover, they were informed of their rights and Ombudsman's competences and legally consulted.

During the visit, it was found that there were deficiencies in the documentation, TDP building was in emergency situation, and the load-bearing columns cracked deeply, cells and corridor opening into, were collapsed.

The administrations of the DPO and TDP were informed about the findings and was given necessary suggestions how to eliminate them under the Law of the Republic of Azerbaijan on the Rights and Freedoms of Individuals Kept in Detention Facilities (*hereafter Law on Detainees*) and IDR of Temporary Detention Places and to improve the documentation. The Commissioner requested to the MIA with regard the findings of the visit and overcoming the existed shortcomings.<sup>18</sup>

Visits were conducted to **Garadag DPO TDP and PU No. 10**. The purpose of this visit was to monitor the custody conditions and treatment and to check the documentation confirming the lawfulness of detention in these facilities.

Meanwhile, NPG interviewed the detainees in the TDP in private. In an interview with them, the detainees have no discontent with detention conditions and treatment in the detention facility. Shortcomings found in the documentations, including failure to well-document the book on medical records were brought to the attention of the police body and TDP

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<sup>18</sup> See pp. 26-27 of the Report

administration and were given recommendations how to eliminate such shortcomings and to improve the documentation.

During the visit to PU No. 19 of the noted Office, administrative areas of the facility were also checked, but no person brought to the custody was found. While reviewing the registration book on the persons brought to the police custody, it was found that there were numerous changes in dates and hours, columns for measures undertaken left unfilled and the documentation about persons brought to the police custody were neglected.

At the same time, the facilities' administration were given relevant suggestions in relation to effective ensuring rights of persons brought to the police custody and even those, who were considered as suspects. The MIA requested to the MIA with regard to the outcomes of the visit.<sup>19</sup>

During the visit to **Surakhani DPO TDP**, it were held private meetings with 3 persons detained in this facility. In the course of the meetings with detainees, they had not expressed dissatisfaction with detention conditions and treatment. However, two of them submitted the NPG members their applications to the Ombudsman about bias criminal investigations.

In the frame of this visit, it was found that general condition in the TDP was in satisfactory state; however, books on medical and other records were not well-documented, because there were no bulletin boards in cells displaying the detainees' rights and duties and the detainees were not provided with hygienic cleaning tools. The administrations of Surakhani DPO and TDP were given appropriate suggestions in respect to the elimination of the abovementioned shortcomings at the administrative level.

During the visit conducted to **Nizami DPO TDP**, the NPG got familiarized with the state of treatment and ensuring the detainees' rights and freedoms, custody condition and the documentation confirming the legality of their detention.

During the conversation with 3 detainees in the facility, despite there were no complaints about detention condition and treatment, it were revealed deficiencies in the documentation and in TDP, itself. Hence, cells have not been supplied with bulletin boards displaying detainees' rights and duties and the detained persons were not provided with hygienic cleaning tools; records on phone calls were not well-documented; medicines in the medical unit of the facility were out of the date; and although, it was issued a medical certificate for one of the detainees with regard his medical examination taking while he was brought to the custody, the personal medical record book did not display any information in this regard.

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<sup>19</sup> See *ibid.*

At the end, the administrations of Nizami DPO and TDP were given necessary suggestions for elimination of shortcomings at the facility level and for improvement of detention conditions and treatment.

The purpose of the scheduled visit conducted to **Sabunchu DPO TDP** was to inspect the treatment of detainees, the state of ensuring their rights, detention condition and the documentation confirming the lawfulness of their detention.

During the visit, private meetings were held with 3 detainees and they did not complain of detention condition and treatment in the facility. Despite that detention condition was found satisfactory in the facility; books on medical and other records were not well-documented. At the end of the monitoring, the administration of Sabunchu DPO and TDP were made suggestions in relation to eradicate shortcomings and to improve the detention condition and treatment.

NPG visited **Binagadi DPO TDP** to investigate detention condition and the state of treatment. Meanwhile, the NPG members interviewed the detainees, but they did not complain of the detention condition and treatment in the facility. Group members reviewed the relevant documentation, including the book on records about the detainees.

During this visit, the following shortcomings, including keeping those who remanded the first time, together with ex-offenders in one cell, the violation of frequency of changing the beddings, failure to provide the detainees with hygienic cleaning tools and to well-document records on detention and healthcare service. The administration of the Binagadi DPO TDP was informed about shortcomings and it were given relevant suggestions about their elimination and improvement of the documentation. The MIA was requested regarding the findings.<sup>20</sup>

One more issue should be noted that the accused person A. using of his uncontrolled situation after bringing to the TDP for the investigation caused “minor injuries” to himself on his neck and right arm with a razor blade. This case was investigated on the basis of the Commissioner’s motion and staff members in charge with this in Binagadi DPO and TDP were held administratively liable due to the negligence in their duties.

In the course of the visit to **Khatai DPO TDP**, where health care professional of NPG also participated, detention condition and treatment of the detainees were monitored on the spot in comply with national and international laws. It were held private meetings with 7 detainees in this detention facility and during these conversations the inmates did not complain of the detention condition and treatment. However, some

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<sup>20</sup> See p. 27

shortcomings were found in this facility because the room intended for healthcare was full of unrelated things such as wardrobes full of belonging of staff members and iron safes, but no necessary inventory was found there and the head of the TDP attributed to the lack of rooms.

Furthermore, it was revealed that the detainees were taken medical examination in the presence of police officers while bringing in and taking out of the police custody, which was confirmed by the head of the facility and attributed this to the security reasons. The 1/3 part of the upper side of walking area for detainees was not covered to protect them from rain and the sun, therefore, it was recommended to solve this issue immediately.

At the end of this visit, TDP administration was given recommendations for elimination of shortcomings and improvement of the custody condition and treatment in compliance with national and international laws.

**PU No. 34, 35, 36 and 37 of the abovementioned DPO** was also visited by the NPG. No detainees were found in those police units, but it was seen that record books of those units on the persons brought to the police custody was made numerous changes in dates and hours, columns for undertaken measures left blank, the documentation on bringing the detainees to the police custody, were treated with negligence. Apart from this, detention place in the PU No. 36 was not in comply with international standards.

In the Khatai DPO PU No. 37, it was found that the last page of the relevant records' book was separated from the seal, dates and hours in the document were modified and drafted and columns for measures left blank despite, at different times, inspectors made notes to fill these columns; the documentation on bringing the detainees to the police custody was neglected and short term detention place in duty station of the respective unit was in comply with international standards.

Meanwhile, staff rooms were monitored and the facility administration was given relevant suggestions in relation to effective ensuring rights of persons brought to the police custody and even those, who were considered as suspects.

The Commissioner in a capacity of NPM, requested to the MIA regarding the elimination of those shortcomings.<sup>21</sup>

During the visit conducted to **Khazar DPO TDP**, custody condition and treatment of the detainees were investigated; state of ensuring the rights of the detained persons under the Law on Detainees and IDR of Temporary Detention Places and the documentation was checked.

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<sup>21</sup> See pp. 26-27

During this visit, private meetings were held with 5 detainees, but they did not complain of the condition and the treatment. However, it was found that the book on records for persons detained and/or arrested, did not display the notes about the dates of their custody. So, that, during the visit, for instance, it was told that one of the detainees was taken to the prosecutor, but that was not documented. The head of the TDP reported that in all cases, when the detainees were taken to the prosecutor, they were not used to document this and attributed this to the absence of a written document on call to the prosecutorial office issued by them.

Furthermore, in most of the cases, the records book of this detention facility did not display the dates, hours and duration of phone calls as recognized by TDP's IDR and there were no any records made by the prosecutor about his inspection. The staff of the detention facility was not aware of the detainees' rights, which shows the necessity of increasing professional capacity of them related to the IDR and general knowledge.

The Commissioner as NPM, requested to the MIA to eradicate those shortcomings.<sup>22</sup>

NPG visited **Sungayit CPD TDP**.<sup>23</sup> The purpose of this visit was to monitor the custody condition, treatment and the relevant documentation. During the visit, private conversations were held with the 15 accused and 3 administratively detained persons, and they did not express any dissatisfaction with the custody condition and treatment in the facility.

In general, records in the detention facility were monitored. The revealed shortcomings such as modifications in the documentation, lack of provision of detainees with hygienic cleaning tools, including first medical aid, failure to indicate in the document the timeframe of release and return of a detainee from a police custody and to cover the 1/3 part of the walking area for detainees were brought to attention of the administration of that TDP and it was given necessary suggestions to eliminate them and to improve the documentation.

The NPM monitored PU No. 1 and 4 of the noted CPO. There were no detainees in both. Several shortcomings were found in the records book of PU No.4. Hence, the records book of this police unit on persons brought to the police custody was not registered in the secretariat on a regular basis and stamped, many changes and drafts were made in relevant dates and hours, and also columns for measures were left blank.

During the visits, staff rooms were also monitored and the Unit and the entire facilities' administration were given relevant suggestions related to

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<sup>22</sup> See pp. 26-27

<sup>23</sup> See the link <http://xeberle.com/az/view/18673/sumqayt-polisinde-monitorinq-veziiyet-necedir/>

effective ensuring rights of persons brought in the police custody and even those, who were considered as suspects. The Commissioner as an NPM, requested the MIA to eliminate the shortcomings.<sup>24</sup>

During the scheduled and *ad-hoc* visits conducted to **Ganja City Main Police Office (CPO) TDP** custody condition and treatment and state of ensuring the rights of detainees were examined.<sup>25</sup> Private and confidential meetings were held with the detainees kept in the facility. The detainees did not complain of treatment and detention condition; along with the legal consultation, their rights and competences of the Commissioner and NPM were explained to them.

All cells in the TDP were monitored and the documentation was checked. At the end, the TDP administration was given suggestions on ensuring the rights of the detainees under the Law on Detainees and IDR of Temporary Detention Places and on improving the documentation.

NPG conducted scheduled visit to **Shirvan, Hajigabul, Sabirabad, Saath, İmişli, Beylagan District Police Departments (DPD) TDPs** without prior notice.<sup>26</sup> During those visits, the purpose was to assess the treatment and condition of detainees in the custody, ensuring their rights under the Law on Detainees and IDR of Temporary Detention Places, keeping records and to identify the current needs.

In the course of those visits, all cells of TDPs were monitored, nutrition, access to healthcare, walking, meeting, phone and parcel services, rules on release out of the cell, conditions and the documentation confirming the legality of their detention and the existed shortcomings were investigated on the spot. The NPG members held private interviews with the detainees in the facility and answered to their appeals; they were also explained their rights and Commissioner's competences and given legal consultations. The detainees did not voice any complaints related to the condition and treatment.

In addition, it was found that Shirvan, Hajigabul and Beylagan DPD TDPs were re-constructed and custody conditions were brought in compliance with international standards.

The administration of TDPs of the above noted district police departments were given suggestions in accordance with national and international legislation, including how to eliminate deficiencies in and improve the documentation drafted under the Constitutional Law and IDR of Temporary Detention Places. Furthermore, some issues were solved at

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<sup>24</sup> See pp. 26-27

<sup>25</sup> See the link: <http://az.trend.az/azerbaijan/society/2398643.html>

<sup>26</sup> See the link: <http://azertag.az/xeber/899333>

the level of police departments and police officers of the facility were legally trained.

The MIA has been requested with regard to the findings of the visit.<sup>27</sup>

NPG members conducted visit to **Bilasuvar DPD TDP**. The purpose of this visit was to assess the condition and treatment, ensuring the detainees' rights under the Law on Detainees and IDR of Temporary Detention Places and to check the relevant documentation.

During the visit, nutrition, access to drinking hot and cold water, healthcare, walking, meeting, phone and parcel services, and rules on release out of cell, detention conditions and the documentation confirming the legality of detentions were monitored in order to assess the general detention condition of the TDP; the existed shortcomings were also investigated on the spot.

Furthermore, 8 detainees were met privately by the NPG members. It has been found that despite it was a summer time, in the facility cooling and ventilation systems were working properly. The detainees in this facility did not complain of custody condition and treatment; also, they were informed of their rights and Ombudsman's competences recognized by the Constitutional Law and were given legal consultations. The detainees did not have any complaints regarding condition and treatment.

In the line with national and international laws, the administration of the facility was given suggestions with regard to better improvement of custody condition in conformity with the IDR of Temporary Detention Places and to the elimination of the existed shortcomings.

For the assessment of custody condition in Jalilabad DPD TDP, the NPG members conducted scheduled and *ad-hoc* visits. Meanwhile, it was discovered that heating and ventilation systems were working properly, nutrition, access to drinking hot and cold water, healthcare, walking, meeting, phone and parcel services, rules on release out of cell, conditions, the documentation about the legality of a detainee's release were checked; Group members met with 16 detainees in private and face-to-face.

The detainees did not complain of condition and treatment; they were informed about their rights and Ombudsman's competences; and each of them was legally consulted.

The visit concluded with the visit of administration of the facility and they were given suggestions related to better improvement of custody condition in conformity with national and international laws and the IDR of Temporary Detention Places and to the elimination of the existed shortcomings.

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<sup>27</sup> See pp. 25-27



**Goranboy DPD TDP** was conducted scheduled visit without prior notice.

During this visit, NPG members assessed the general condition and treatment, ensuring the rights of detainees under the Law on the Rights and freedoms of individuals kept in detention facilities and IDR of Temporary Detention Places and checked the relevant documentation.

All custody cells in the TDP were monitored, nutrition, access to drinking hot and cold water, healthcare, walking, meeting, phone and parcel services were inspected and the records about the release of a detainee out of the cell were checked. In addition, NPG had a private meeting with 5 administratively detained persons in the facility. Those detainees did not complain of the detention condition and treatment, they were explained their rights and legally consulted.

At the end of the visit, the TDP administration was given suggestions about ensuring the rights of detainees in conformity with the Law on the rights and freedoms of individuals kept in detention facilities and IDR of Temporary Detention Places and about improvement of the relevant documentation.

NPG members conducted a visit to **Goychay DPD TDP** in the line with the OPCAT.

During the visit, nutrition, access to drinking hot and cold water, healthcare, walking, meeting, parcel and phone services were monitored, and the documentation about the release of a detainee out of the cell.

Meanwhile, it was found that the documentation and the relevant records journals were not well-documented as specified in the Law on Detainees and IDR of Temporary Detention Places.

At the end of the visit, DPD administration and head of the TDP were given relevant suggestions related to the elimination of shortcomings at the police department level and the improving the documentation.

It was conducted scheduled visit to **Lankaran city and district police department TDP**.<sup>28</sup> Meanwhile, the NPG monitored all cells, detention condition and treatment; furthermore, they held private meetings with 8 detainees. All conditions for holding confidential conversations were created for the Group members. The detainees did not complain of conditions and treatment in the facility. The detainees were explained their rights and Commissioner's competences and were given legal consultations.

Also, it was found that the measures have been undertaken to improve the custody condition. At the end, the administration of the police

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<sup>28</sup> See the link <http://azertag.az/xeber/878326>

department was given suggestions to eliminate the existed shortcomings and to improve it in conformity with national and international laws and the IDR of Temporary Detention Places. Furthermore, the staff was legally trained.

In order to assess the custody conditions in **Salyan DPD TDP**, the NPG conducted visit to that facility. During the visit, 7 persons administratively detained, including 4 administratively and 3 accused persons, in the facility were met privately. Those detainees did not complain of the condition and treatment. nonetheless, while reviewing the documentation, it was detected that the records book on the persons brought to the police custody was subjected to modifications and at the end of the visit, NPG members gave suggestions to the head of the TDP regarding the improvement of custody condition and documentation and treatment.

The purpose of the scheduled visit to **Sheki DPD TDP** was to assess the custody condition and treatment in the facility, ensuring the rights of detainees in conformity with the relevant legislation and to process the documentation.

During this visit, NPG held private meetings with 9 detainees. In the course of private conversations, the detainees did not complain about the detention condition and treatment. The detainees were informed of their rights and competences of the Commissioner and legally consulted. In addition, it was detected that measures for further improvement of the detention condition were being continued.

Administration of the police department was given suggestions to eliminate the existed shortcomings and to improve them in conformity with national and international laws and the IDR of Temporary Detention Places.

**Tovuz and Agstafa DPD TDPs** were monitored and detention condition and treatment and the relevant documentations were checked.

During the conversations with detainees in Tovuz DPD, it was noted that they were taken medical examination in the presence of the police officers while being brought to the custody, while the head of the TDP attributed this to the security reasons.

During the visit to Agstafa DPD TDP, it was found that there were no medical records books for administratively detained persons in the facilities. Nonetheless, the head of the TDP stated that despite since January, 2015 the relevant office of the MIA has been requested with regard this matter, but they were not supplied yet.

As it has been previously noted, the Commissioner requested to the MIA, to undertake the shortcomings mentioned above, to improve the documentation and strengthen the control over the TDPs and police stations and to guide the police stations to prevent similar cases.

Among the motions to the respective MIA it were also welcomed the issues of reconstruction of TDPs in Garadag, Gadabay, Shirvan, Hajigabul, Beylagan police stations in line with international standards, improvement of custody conditions, creating and equipment of separate rooms for healthcare, meeting, interrogation and worship, which will lead to the efficient ensuring rights of detainees.

In general, in the course of all visits conducted, in accordance with para. 1.4 of the Rules for Safeguarding and Escorting Persons Detained in Temporary Detention Places of Police Bodies, it was revealed that the drawn up acts about custody of persons detained in Binagadi, Garadag and in Yasamal DPO TDPs before the repair, were not stamped and made corrections in dates and hours in the relevant records books; no relevant notes were made in the records book on meetings of persons administratively arrested in Gadabay DPD TDP since November, 2014; persons brought to TDPs from investigation isolators were not medically examined and their personal medical records did not well-documented accordingly; Furthermore, the conditions in Saatli DPD TDP needed to be improved; there was a lack of an appropriate bench in police cell for short-term (three-hours), which was located in front of the duty station and in general, the condition was not met the standards; in duty stations of Sumgait CPD, dates and hours inside the records book on persons brought to the police custody were subjected to modifications; during the conversation with the police officer on duty, it was also found that the persons brought to the prosecutor as well as from other police stations were not registered, also some TDPs staff was in need to be legally trained.

In a year, during the visits conducted to TDPs of Baku and other districts' police units and departments throughout the country, staff in charge stated that they were not supplied with hygienic cleaning tools and medicines for females and/or males detainees, especially in the regions by the MIA as endorsed in para. 10.7. of the IDR of Temporary Detention Places.

Besides, Ombudsman's hotline posters about prevention of torture in police stations displayed the phone numbers unrelated to the Office.

As a consequence, in the frame of the Commissioner's NPM capacity, the shortcomings revealed during the visits of the NPG members, were solved through preventive measures as well as the Commissioner's motions to the MIA and positive developments have been achieved.

For instance, during the visit conducted to Khazar DPO TDP, it was revealed that there were deficiencies in the relevant documentation; this should be noted that the facility failed to make notes in the records book for persons detained or arrested about the release of one of the detainees out of

cell to take him to the prosecutor's office; the TDP also failed to properly ensure access to phone service in line with the IDR of Temporary Detention Places and legal awareness of the facility staff was needed to be raised.

In the response letter submitted by the MIA regarding the elimination of those shortcomings, it was stated that the detainee B. who was taken under custody in the TDP in accordance with the detention draw up issued by the investigator of Khazar District Prosecutor's Office, Mr. H.Abbasov, released out of his cell to be taken to the crime scene for investigative procedures under the relevant letter issued by the same investigator; but later was returned to the cell and the relevant records were taken in the records book, and the shortcomings found in the detention facility were eradicated.

Regarding Agstafa DPD TDP, it was reported that the facility eliminated the drawbacks related to the lack of medical records books for administratively detained persons and was provided with such medical books.

In addition, based on the motions of the Commissioner to MIA regarding the findings of the NPG visit to Yasamal DPO TDP, the exploitation of that detention facility was immediately stopped due to the emergency situation of the TDP, deep cracks existed on the load-bearing columns and collapsing of cells and corridor opening into.

According to other response letters, the drawbacks revealed by the NPM in Binagadi, Garadag, Yasamal district police stations TDPs, as well as duty stations of the noted police stations, including also Khatai and Sumgait city and district police stations, have been eliminated, books and journals intended for use were sewn, stamped and registered accordingly.

Furthermore, as a consequence of preventive measures, the registration of meetings with the administratively detained persons and documentation related healthcare service were put in an order in Gadabay DPD TDP; Khatai DPO PU No. 36 and Saatli DPD duty stations were provided with tables and chairs; also the measures towards the harmonization of standards with international ones were continued; TDPs of city and district police stations of the country were provided with medical equipment in accordance with norms; regional police stations were instructed to display the Ombudsman's hotline poster about prevention of torture on a separate board.

Besides, some staff members of city and district police stations were brought to the administrative liability for defects in their duty performances. Consequently, head of Guba DPD TDP was held administratively liable for failure to input the full information about the detainee into the database as

well as to take medical examination of the detainees, transferred from TDP to the investigation isolator.

As a result of the investigation taken by the NPG, the police Mayor, Y. Khaligov got severe reprimand, whereas the police captain V. Aliyev of Sheki City and District Police Department got a reprimand in accordance with the relevant decision for cruelty and rude behavior against an applicant by breaking the Conduct of Ethics of the Employees of Ministry of Internal Affairs.

As well as, during another investigation, it was found that deputy of the head of Khatai DPO PU No. 37 failed to ensure proper investigation in relation to the request of the complainant called to “102” hotline service of MIA with regard to illegal actions of the investigator, entrusted the execution of the case to the applicant himself, instead.

For the abovementioned failures, the deputy to the head of Khatai DPO PU No. 37 and his investigator were brought to the administrative responsibility.

In the frame of the activity of the Ombudsman as an NPM, all shortcomings revealed by the NPG, were solved through preventive measures and Ombudsman’s motions to the MIA and positive developments were achieved accordingly.

### ***2.2.2. Institutions of the Ministry of Justice Penitentiary Service***

Preventive visits and measures towards ensuring the rights of detainees in the penitentiary institutions were progressed within the activity of the Commissioner as an NPM. In general, in 2015, 39 penitentiary facilities under the Ministry of Justice of the Republic of Azerbaijan were conducted 104 scheduled and *ad-hoc* visits.<sup>29</sup>

During the visits, private meetings were held with 1012 inmates and the custody condition, access to health care, upholding of honor and dignity of prisoners, the prohibition of torture were the issues of focus of attention. Right to social security, to health, to appeal and to counsel of the prisoners in the penitentiary institutions were also subjects of the investigation.

As a consequence of the conducted visits, it was found that measures for bringing custody conditions of prisoners and detainees in the penitentiary institutions into compliance with international standards have been continued in 2015 as well.

Hence, penitentiary institutions and investigation isolators, including their roofs and toilets were renovated; conditions in dorms and investigation isolators were improved; heating system was installed; rooms for phone conversations, visiting rooms, classes, investigation and lawyer’s rooms,

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<sup>29</sup> See, Annex 1, Diagram 1 and 3

clubs, canteens, walking areas, medical sanitary units and drug storages have been repaired.

According to the response letters to Commissioner's requests to take measures for improving the condition, it was stated that final constructional works were being carried out in the new penitentiary institutions, penitentiary complexes in Ganja and Lankaran cities, in female prison located in Zabrat settlement of Baku, juvenile correctional institutions, in prison located in Umbaki settlement according to the project-estimates documents.

Within the competences, NPM applied with recommendations to the Penitentiary Service to seriously focus on the issues of ventilation of dorms and cells in prisons and investigation isolators, access to drinking water because of problems that may occur during winter and summer times in future.

Considering the recommendations, relevant preventive measures have been undertaken; measures for improving the custody conditions were included into the action plan; the existed short-term challenges have been also eliminated efficiently by the relevant authorities.

The Office of the Prosecutor-General was immediately requested with regard to the possible exposure of cruel treatment or violence and similar cases.

During the preventive visits, NPG members' suggestions and recommendations made within competences of the Commissioner and as an NPM in compliance with the OPCAT as well as relevant Constitutional Law, were based on the national legislation, CAT, SPT and CPT Reports, Istanbul Protocol, UN Basic Principles for the Treatment of Prisoners, UN Standard Minimum Rules for the Treatment of Prisoners, European Prison Rules and Council of Europe Committee of Ministers, Recommendation No. R (98) 7 concerning the Ethical and Organizational Aspects of Health Care in Prison (Apr. 8, 1998) and other international standards.

In 2015, NPG conducted several scheduled and *ad-hoc* visits to Baku Investigation Isolator.<sup>30</sup> The purpose of the visits was to ascertain facts in the applications addressed to the Commissioner and to assess the custody conditions and treatment; whereas, *ad-hoc* visits were mainly conducted for verification the status of implementation of recommendations made and investigation of the applications received to the Commissioner.

During the visits to this detention facility, in general, NPG members held meetings with 165 detainees. The issues raised by some of those

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<sup>30</sup>See the link <http://azpolitika.info/?p=171254>; also see the link <http://www.azadliq.org/content/ombudsman-elmira-xedice-leyla/27373193.html>

detainees, were discussed with the facility administration and solved on the spot.

The Office of the Prosecutor-General and MIA, relevant courts were requested to investigate the applications of the interviewed detainees addressed to the Commissioner, who concerned about biased investigation of their cases and other issues and to take relevant measures under the law. Furthermore, the detainees were informed about the issues raised and the Ombudsman's competences.

At the end, the administration of the investigation isolator was made suggestions about further improvement of detention conditions, healthcare service and the documentation under the national and international laws, Law on Detainees and IDR of Temporary Detention Places and conducted legal awareness of the staff.

NPG conducted scheduled and *ad-hoc* visits to the **Investigation Isolator No. 2** under the OPCAT. The purpose of those visits was to ascertain facts shown in the applications to the Ombudsman, to assess the condition of detention and treatment, situation with ensuring the rights of detainees, and to check the documentation.

During the visit, canteen and bedrooms, medical-sanitary unit, penal colony, visiting rooms and other establishments, the state of nutrition, access to drinking hot and cold water, health care, walking, parcel services in the facility were monitored; also, it was found that ventilation system was normal for the hot weather. In addition, the documentation for phone services and the current general conditions were assessed.

Nevertheless, the Commissioner requested the Ministry of Justice regarding shortcomings revealed in the facility during the visit of the NPG, such as the lack of fridge for drugs, as well as sterilizer of dental and other medical tools and taking into account the importance of supplement of the facility with this equipment, she requested the Ministry to do so.

At the same time, over 70 detainees were privately met and some of their applications were investigated on the spot. The detainees did not complain of treatment and detention conditions of the facility. They were informed of their rights and requirements of the relevant laws as well as the competences of the Commissioner and they were legally counseled with regard to the issues raised by them.

During the visit, the facility administration was given suggestions about how to better improve the detention conditions and treatment, healthcare service and documentation under national and international legal norms as well as the IDR of Temporary Detention Places.

During the scheduled and *ad-hoc* visits held to the Investigation Isolator No.3. Several times in a year, the detention conditions, treatment

and the applications addressed to the Ombudsman were investigated; numerous persons detained in this facility were met in a private and necessary measures have been taken.

In the interim the visits, NPG monitored the facility cells, penal isolator, solitary confinement, quarantine room and other establishments, nutrition, drinking hot and cold water, healthcare and phone service, the documentation were monitored; but state of the heating system was monitored during the winter. Furthermore, medical-sanitary unit, dental cab, ambulatory care room, drug storage and wards were also monitored and registration books were checked.

In the time of the visit to the Medical Sanitary Unit of the facility, it was found that there was no fridge in the drug storage room. Moreover, it was detected that in the room for phone system located in the first building of the investigation isolator, there was a lack of partitions among phones. The administration of the facility was informed about subsequently.

In the meantime, it was revealed that the number of beds was less than it must be, which led to the over crowdedness in the facility and therefore, the Commissioner requested to the Ministry of Justice to take necessary actions for eradication of such shortcomings.

Considering the suggestions made by the Commissioner as an NPM, new and modern solitary confinement was constructed in the premises of the investigation isolator and new quarantine room was also built.

At the end, the administration of the investigation isolator was given suggestions about further improvement of the detention conditions, healthcare service and the documentation under the national and international laws, Law on Detainees and IDR of Temporary Detention Places.

During the visit to *Sheki Penitentiary Complex*, NPG members met with over 50 detainees in various establishments within the premises of the noted Complex, also some persons have been met with some detainees at their own request; they have been interviewed and some requests of them were solved on the spot.

In the course of the visit, dormitories, canteen, medical-sanitary unit, solitary confinement, visiting rooms and other establishments of the penitentiary complex, nutrition, drinking cold and hot water, health care, walking area, visiting room, parcel service and the documentation about phone calls and the current condition were monitored.

At the end, the administration of the penitentiary facility was given suggestions to further improve the detention conditions, healthcare service and the documentation under national and international laws, Law on Detainees and IDR of Temporary Detention Places.



Besides, NPG conducted a visit to the **Prison of the Penitentiary Service** based on the OPCAT.<sup>31</sup> The purpose of the visit was to assess the general custody condition and treatment in the prison facility; and to ascertain facts shown in the applications addressed to the Commissioner, state of ensuring the prisoners' rights as well as the relevant documentation.

In the course of this visit, regime corps for life sentenced prisoners as well as determinate or fixed term sentenced prisoners, solitary confinement, medical-sanitary unit, visiting rooms, canteen and other establishments, the custody conditions meeting all requirements of cold weather, healthcare service, nutrition, heating system, access to drinking cold and hot water, parcel, walking area, visiting rooms, the documentation on phone service as well as general condition were monitored.

It was found that repair works in the buildings of the prison facility for prisoners of various regime and solitary confinement were being continued; as well as heating system were assessed satisfactory for winter weather.

In the meantime, NPG members held confidential conversations with numerous prisoners, including life imprisoned and female prisoners with indeterminate sentence; also investigated their requests concerning the visitation, phone service and access to health care and some requests were solved on the spot.

During the conversations, the prisoners were informed of their rights, relevant national laws, competences of the Commissioner and legal advice was given to each of them regarding the issues raised.

At the end, the administration of the prison was given suggestions to further improve the custody conditions, healthcare service and the documentation under national and international laws, Code of the Execution of Punishments as well as the Prison IDR.

Furthermore, NPG conducted scheduled and *ad-hoc* visits to the **Jail No. 1** on the basis of the OPCAT and custody condition and treatment in the prison facility. The purpose of the *ad-hoc* visits was to ascertain facts in the applications received by the Commissioner and via the Office's hotline, to monitor custody condition and treatment and to verify the status of the implementation of suggestions.

Meanwhile, NPG members monitored prison dorms, medical-sanitary unit and solitary confinements and other prisoners in various establishments of the prison facility were interviewed at their own request, along with those appealed to the Commissioner.

During the visit, the interviewed prisoners did not complain of the custody conditions, treatment and the health service of the prison facility.

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<sup>31</sup> See the link <http://az.trend.az/azerbaijan/society/2203308.html>

However, during the monitoring, some shortcomings such as the lack of bulletin board listing the rights and responsibilities, in the solitary confinement, imbalance between the number of chairs and the prisoners and the violation of sequence of bathroom days.

The shortcomings revealed were brought to the attention of the head of the prison, and it were made necessary suggestions about better improvement of the general custody conditions and documentation and for elimination of those shortcomings.

During the visit repeated, prison dorms, medical-sanitary unit, quarantine cell, solitary confinement, visiting rooms, and other establishments, nutrition, access to health care, parcel service, walking area, and the documentation about visits and phone calls were monitored and the repair works were highly evaluated.

NPG members conducted scheduled and ad-hoc visits to the **Jail No. 2** in accordance with the OPCAT and the Constitutional Law.

The Group members monitored general custody condition and treatment in this prison facility. Numerous prisoners were privately interviewed and their appeals were investigated on the spot. The prisoners were informed of their rights and competences of the Ombudsman under the relevant Constitutional Law. In addition, they have been legally counseled and some appeals have been solved promptly.<sup>32</sup>

Furthermore, prison solitary confinement, medical-sanitary unit, and other establishments were also checked and the prison administration was given suggestions how to better improve the custody conditions and the documentation under the national and international laws, international standards of treatment for prisoners as well as the Code of the Execution of Punishments.

The Ministry of Justice was requested in relation to the shortcomings.<sup>33</sup>

In general, within a year, NPG members conducted 3, including scheduled and *ad-hoc* visits, to the prison No. 4 under OPCAT and the Constitutional Law.

Also, during the visits, where the Commissioner visited the facility in person as an NPM, general custody condition and treatment was monitored; incoming applications were investigated; the compliance of custody conditions and treatment of female prisoners with the relevant international standards, Istanbul Protocol and UN Bangkok Rules, and the legislation of the execution of punishment were assessed; also the documentation was checked.

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<sup>32</sup> See the link [http://faktxeber.com/olundu%3C/ombudsmann-nmayndlri-lqar-mmmdivla-grblr\\_h467109.html](http://faktxeber.com/olundu%3C/ombudsmann-nmayndlri-lqar-mmmdivla-grblr_h467109.html)

<sup>33</sup> See pp. 41-42

The dorms, canteen and medical-sanitary unit of female prison were also monitored. Repairing of facility establishments, improvement of custody condition and quality of nutrition, increasing the vocational training of female prisoners, creating and furnishing of new dental cabinet and in general, improving the health care service in the facility were among the positive developments observed.

As a consequence of previous visits and suggestions made by the Commissioner, necessary actions have been taken, which led to the advancement of conditions of the female prisoners.

In the course of the visit conducted with presence of the Ombudsman, collective meetings were held with female prisoners in the facility and learned their problems. Meanwhile, numerous female prisoners were privately interviewed at their own requests, where confidentiality was assured and most of the requests were investigated without delay.

Meetings were held also with female prisoners who has minor dependants and situation of mothers and their children were learned. The female prisoner G. appealed to the Ombudsman concerning the placement of her 3-aged child into the state-run child social care institution and transferring her into another facility close to the region where that social institution is located in order to be able more often to see her child. Taking into account the appeal of the prisoner, Baku city Executive Power Office was requested with regard this matter and her minor aged child was placed to the social institution of her wish.

During the visits, female prisoners stated that they need gynecologist and neuropathologist in the respective facility. However, the administration of the facility stated that there is a staff gynecologist in the prison but she was sent to Baku Investigation Isolator. The over crowdedness was also observed in this female prison facility.

The Commissioner requested the Ministry of Justice in relation to the above noted issues.<sup>34</sup>

In the meantime of the repeated visit to this prison facility prison dorms, canteen and medical-sanitary unit were monitored. Furthermore, it was observed that the establishments within the premises of the facility were repaired; other positive developments, including improvement of custody condition and quality of nutrition, increasing the training opportunities of the female prisoners, creating and furnishing a new dental cabinet and increasing the quality of health care service have been achieved.

At the end of the visit, the prison administration was given suggestions for better improvement of the custody conditions and the documentation

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<sup>34</sup> See pp. 40-41

under the national and international laws, international standards of treatment for prisoners.

During the visit conducted to **Jail No. 5**, facts indicated in the applications to the Commissioner were ascertained, detention and treatment were assessed, and the state of ensuring the rights of prisoners kept in the facility in line with the prison IDR and international standards as well as the documentation was monitored.<sup>35</sup>

In the meantime, private and confidential conversations were held with more than 50 prisoners, whose requests were promptly investigated.

Moreover, prison canteen, dorms, medical-sanitary unit and newly constructed establishments were monitored.

In the course of the visit, it was revealed that some records about prisoners' personal health story have not been made in their Personal Health Records, medicines were disseminated to prisoners by the irrelevant prisoner without a doctor's instruction, being of the fridge for drugs out of service and it was failed to comply with sanitary rules wards, ambulatory-care room, dental cabinet of the facility.

During the visit to solitary confinement, it was found that there was a lack of bulletin board in the prison cells listing the rights and responsibilities of the prisoners, in some cells the water tap was out of service, and the right of prisoners to walk was partially restricted.

As well as, it was detected that prison medical-sanitary unit was in need of re-construction by bringing it into compliance with international standards.

The prison administration was given suggestion for the elimination of the shortcomings revealed as well as for better improvement of the custody conditions, health care service and the documentation under the national and international laws, Code of the Execution of Punishments and the Prison IDR.

The purpose of the visit to the **Jail No. 6** was to ascertain facts indicated in the applications addressed to the Ombudsman and to assess the facility detention condition and treatment.

The manufacturing unit, medical-sanitary unit and solitary confinement in the prison facility were monitored as well as private meetings were held with over 30 prisoners appealed to the Commissioner.

In the time being in the facility it was revealed that tables and chairs were provided to the prisoners in solitary confinement during their eating time and taking them out afterwards; prison cells as well as solitary

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<sup>35</sup> See the link <http://sputnik.az/news/20150606/400360305.html>

confinement have in need of bulletin boards listing the rights and responsibilities of the prisoners, records have not been taken properly in the registration book in the medical-sanitary unit of the facility; and ambulatory-care room was in need of further improvement of the condition.

The shortcomings were brought to the attention of the head of the prison facility and the chief physician of the medical-sanitary unit and were given suggestions for the improvement of custody detention, healthcare service and the documentation in accordance with national and international legislation.

The purpose of the visit to the **Jail No. 7** was to ascertain facts indicated in the applications received by the Commissioner and to assess custody condition and treatment. With this purpose, all establishments within the premises of the prison facility, including solitary confinement, quarantine cell, medical-sanitary unit, visiting rooms, worship places, clubs, kitchen, baths, gyms and prison phone call rooms and other were monitored, more than 60 prisoners were interviewed privately and collectively and also, documentation and registration books were reviewed.

Meanwhile, it was found that there was a over crowdedness in the solitary confinement cells; there were a lack of bulletin board listing the rights and responsibilities and the rules of daily regime; the prisoners who must be put into cell were not segregated and were still kept together with those in the solitary confinement; size of some prison cells did not meet international standards; and the floor of one of the cells was in need of repair.

During the monitoring in the medical-sanitary unit of the facility, it was observed that sanitary rules in the ambulatory-care room have been disobeyed and in general, there were untidy and not clean. There were problems in the medical registration books, including problems with the registration, the room intended for drug storage was full of unrelated things, the fridge was out of service and there were anti-chock drugs in the dental cabinet.

The shortcomings were brought to the attention of the head of the prison facility and the chief physician of the medical-sanitary unit and were given suggestions for the improvement of custody detention, health care service and the documentation in accordance with national and international legislation. In the response letter submitted by the Penitentiary Service it was stated that all drawbacks were eradicated.

The purpose of the visit to the **Jail No. 8** was to ascertain facts indicated in the applications received by the Commissioner and to assess custody condition, treatment and the state of ensuring the rights of prisoners. During this visit, prisoners were interviewed by the NPG members in a

private and their requests were investigated promptly.<sup>36</sup> The prisoners were informed of their rights and Ombudsman's competences and legally counseled.

Furthermore, newly being constructed prison medical-sanitary unit and other establishments of the prison facility were monitored and the administration was given necessary suggestions with regard to better advancement of the custody condition.

The purpose of the other visit conducted to the **Jail No. 9** was to investigate applications received by the Commissioner. In the interim the visit, prison dorms, computer rooms, healthcare unit were monitored and the current condition was found as satisfactory.

The administration of the prison facility was given suggestions for elimination of shortcomings revealed and for the improvement of custody detention, healthcare service and the documentation in accordance with national and international legislation, the Code of the Execution of Punishments and the Prison IDR.

Analysis of the applications received by the Commissioner, custody conditions and treatment were the subject of the investigation during the visit conducted to the **Jail No. 10**. Meanwhile, NPG members monitored the manufacturing unit, healthcare unit and solitary confinement cells, places of worship, mosque and church, canteen, dorms, visiting rooms, food storage and other establishments, more than 30 inmates have been interviewed in a private.

Healthcare unit of the prison facility, including dental cabinet, ambulatory-care room, drug storage and wards were monitored; got familiarized with the treatment condition, registration books were checked and inmates being treated there were had a conversation.

In the interim the visit, NPG monitored the solitary confinement of the facility, and held meetings with 10 inmates kept there also, they checked the documentation.

The administration of the prison facility was also given suggestions for elimination of the shortcomings revealed and for the improvement of custody detention, healthcare service and the documentation in accordance with national and international legislation.

Numerous prisoners have been had private conversations with the NPG members in the **Jail No. 11** and their requests were investigated without delay. The prisoners were informed of their rights and Ombudsman's competences and were legally counseled with regard to the issues arisen.

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<sup>36</sup> See the link <http://metbuat.az/news/144593/milli-preventiv-grup-penitensiar-xidmete-muraciet-edib.html>

Also, after the monitoring the solitary confinements, healthcare unit and other establishments of the facility, the administration was suggested to improve the custody condition and given necessary instructions.

It should be noted that in the time of the monitoring of the Jail No. 11, it was revealed that despite one of the prisoners had a large hematoma on his right eye, this case was not recorded in the journal for damages.

In addition, it was found that medical registration books were not properly prepared and had some deficiencies, medical registration books did not display daily private visits of a prison physician the prisoners held in the solitary confinement, and injuries of the inmates were not recorded to the relevant book. Furthermore, there was no proper condition and heating system in the drug storage, also the storage had lack of shelves for drugs, as well as drugs were stored mixed and dispersed, and the fridge was out of service despite fact that there were drugs inside.

The Ministry of Justice was requested regarding the shortcomings, despite fact that NPG members characterized the inflammation of venous capillary of the right eye of the prisoner in the solitary confinement as a bruise, there was a medical reference about that this sign was not an injury.

It were taken measures for the ventilation of the drug storage of the prison facility, the fridge was repaired and medicines were put in order in the storage.

The head of the healthcare unit of the prison facility was warned about the deficiencies revealed in the medical book with regard to the proper records of doctor's visits of the prisoners in solitary confinement.

During the *ad-hoc* visit, the status of the implementation of previously given suggestions was discussed with the head of the prison facility.

The administration of the prison facility was given suggestions for elimination of the shortcomings under the Code of the Execution of Punishments and prison IDR.

In the course of the visits conducted to the **Jail No. 12**, the solitary confinement, healthcare unit, quarantine cell and other establishments were monitored; more than 50 prisoners have been interviewed by the NPG members along with those appealed to the Ombudsman.

The NPG members met with all inmates kept in solitary confinement of the facility, in their cells and checked the relevant documentation.

Healthcare unit of the prison facility, including wards, dental cabinet, ambulatory-care room, drug storages were monitored; the registration record books were checked and inmates being treated there, were had a conversation.

With the reference to the applications received by the Commissioner, several inmates were privately interviewed. Those prisoners did not

complain of their custody condition and treatment. The inmates were informed of their rights and Ombudsman's competences.

At the same time, some shortcomings were brought to the attention of the Administration and head of the healthcare unit of the facility. Furthermore, they were given necessary suggestions for improvement of the documentation and detention condition.

During the visit held to the **Jail No. 13**, the manufacturing unit, healthcare unit, solitary confinement, canteen, dorms, visiting rooms, food storage were monitored; as well as over 60 prisoners were privately interviewed.

The group members inspected the dental cab, ambulatory-care room, drug storage; wards in the Healthcare unit of the prison facility, got familiarized with general condition. NPG also checked the registration books, and had a conversation with the prisoners treated in the Unit. In addition, NPG interviewed 12 inmates in their cells of solitary confinement and also checked the documents.

The administration was informed about the shortcomings found in the manufacturing unit, canteen, solitary confinement, phone service, health care, and in registration books of the solitary confinement as well as other issues raised by some inmates and solved promptly. Furthermore the administration of the prison facility was given appropriate suggestions how to eradicate those shortcomings and improve custody, healthcare and the documentation in conformity with national and international laws.

The purpose of the visit to the **Jail No. 14** was to inspect the applications received by the Ombudsman, custody condition and treatment.

During the monitoring all establishments within the facility were inspected and it was observed that there was a need of bulletin board displaying the rights and responsibilities of the prisoners in the solitary confinement, some cells were in need of beddings and water tap, which were out of service, and medical registration books in the Healthcare Unit of the facility were not done properly.

The drawbacks were brought to the attention of the Administration and head physician of the Medical Unit of the facility were given necessary suggestions for their urgent elimination and improvement of general condition.

During the visit conducted to the **Jail No. 15**, detention condition, treatment and applications of the inmates detained there received by the Commissioner were the subject of the investigation.

The NPG members monitored the Medical Unit and solitary confinement cells of the facility, along with private interviews of more than 30 inmates appealed to the Ombudsman.



The Group members inspected dental cabinet, ambulatory-care room and wards got familiarized with general condition, examined the registration books and had interviewed the prisoners being treated in the Medical Unit.

Meanwhile, it was found that beddings in most cells of the solitary confinement were not frequently changed, there was an imbalance between the number of chairs and the prisoners, there was a need to improve the sanitary condition, to provide with bulletin board listing the rights and responsibilities of prisoners, and registration books were not made in a proper way in the Medical Unit.

The shortcomings were brought to the attention of the of the administration and head physician of the Medical Unit of the facility were given necessary suggestions for their urgent elimination and improvement of general condition and the documentation.

In the course of the visit to the prison No. 16, it were inspected the custody condition, treatment in the facility. Moreover, the group members investigated the applications addressed to the Ombudsman and state of ensuring the prisoners' rights as well as checked the documentation.

While monitoring the dorms, healthcare Unit, quarantine cells, punishment cell, visiting rooms and other establishments of the facility, the NPG members inspected the detention condition, access to and current state of healthcare and parcel services, walking, visitation and phone system, they also examined the documentation. The repair works were found satisfactory.

In the meantime, the administration of this facility was given suggestions for further improvement of the detention condition, healthcare service and the documentation under national and international laws as well as Prison IDR.

During the visit conducted to the **Jail No. 17**, the NPG members monitored the Medical Unit and solitary confinement. Along with the prisoners appealed to the Commissioner, over 40 inmates were privately interviewed.

The Group members welcomed the newly constructed sport complex in the facility, which will lead to better correction of the prisoners. Also, the condition created in the Medical Unit was found satisfactory. There were no difficulties with supplying the medicines as well.

With the reference of the problems about the lack of bulletin board in the punishment cells confinement as well as imbalance between the number of prisoners and chairs, the Administration was given suggestion to eliminate those challenges at the administrative level as well as to improve custody conditions, healthcare and the documentation in conformity with national and international laws and the Prison IDR.

Subsequently, the Commissioner requested to the Ministry of Justice concerning the shortcomings found.<sup>37</sup>

The NPG was engaged in private conversations with those inmates appealed to the Commissioner and those being treated in the health facility and had an access to examine the documents during their visit to the **Specialized Medical Institution of the Penitentiary Service**.

In the course of the visit again to that facility, the state of ensuring the prisoners' rights as well as the documents were examined; moreover, the inspection of various departments, including of the quarantine cell, punishment cell, visiting rooms and other establishments, custody condition, healthcare and parcel services, walking, visitation and the records about phone calls.

During the visit, NPM presented the suggestions to the health institution administration for better improvement of custody conditions, healthcare service and the documents.

NPG members aimed to ascertain facts shown in the applications of the prisoners received by the Ombudsman and those submitted by International Committee of the Red Cross (ICRC) country office during the visit to **Medical Institution of the Penitentiary Service**.

The visit concluded with a meeting with the head of medical institution, during which the NPM presented its findings and suggestions for better improvement of the treatment condition, healthcare service and documentation in line with national and international laws.

The purpose of the visit of NPG conducted to Correctional Facility in the frame of National Day of Human Rights was to assess the detention condition, treatment and the ensuring the juveniles kept there.

Meanwhile, the NPG monitored all establishments within the premises of the juvenile correctional facility, got familiarized with detention conditions of juveniles and with the treatment of them.

In the conclusion of the visit, the correctional facility administration was given suggestions with regard to the improvement of detention condition and treatment.

In general, the findings within the activities of the Commissioner as an NPM were eliminated through preventive measures, as well as Ombudsman's motions to the Ministry of Justice, which demonstrated successful practice of cooperation.

Subsequently, it became clear that in the female **Jail No. 4**, inmates need to be provided with two physicians-one gynecologist and

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<sup>37</sup> See pp. 41-42

neuropathologist and therefore, this issue was raised in the Ombudsman's motions to the respective Ministry.

Supplying the investigation isolator No. 2 with fridge for drugs and sterilizer for dental and other medical tools, which were difficulties by the NPG found in the facility, became also an issue of priority.

Furthermore, it was suggested to improve documents of all penitentiary institutions, including the relevant registration books of healthcare units, as well as to well document those with similar content rather than keeping records differently and to develop common standard for those records.

The suggestions were mainly about installing the effective heating, cooling and ventilation systems and increasing the number of such devices in the penitentiary facilities being constructed taking into account the air condition in advance. Furthermore, it was underlined the necessity of accelerating the constructional works of penitentiary institutions in female and juvenile detention facilities, prison in Umbaki settlement, as well as in Ganja and Lankaran cities due to over-crowdedness in some prisons, Baku Investigation Isolator, and investigation isolators No. 2 and 3.

The suggestions made by the Commissioner in relation to those issues were taken into consideration and the Penitentiary Service of the respective Ministry and its Main Health Department took relevant measures.

Consequently, in the reference to response letter, it was known that the Healthcare Unit of the female **Jail No. 4** was provided with a gynecologist; medical examinations and consultations were held in the Main Health Department by involving specialized physicians if it deemed necessary; however, Medical Unit of the Investigation Isolator No. 2 will be equipped with large sterilizer and drug storage.

Furthermore, analysis was carried out in relation to the improvement of the registry of health examination results of detainees, prisoners and of those held in solitary confinement, as well as the relevant decision is to be taken.

It was also stated that the existed impediments regarding the placement of inmates in line with national legislation will be eliminated with the exploitation of new and modern penitentiary institutions, including the female penitentiary facility, which were being constructed in various regions of the country.

New facilities will be supplied with all necessary infrastructures, including heating, cooling and ventilation systems, construction of which is being continued on the basis of the yearly allocated state budget. In addition to this, according to the noted above letter, the relevant devises in the existed penitentiary institutions is going to be installed gradually.

Also, following the Ombudsman's suggestions, water taps in solitary confinement cells in **Jails No. 2, 11 and 17** were changed; cells were supplied with beddings, extra table and chairs, as well as with bulletin boards displaying the rights and responsibilities of prisoners; repairing of those solitary confinement cells in these prison facilities was included into the relevant plan.

The administration of the **Jail No. 11** undertook measures for ventilation in the drug storage of the prison facility, as well as the fridge was repaired and medicines were stored by their classification in groups.

Head of Medical Unit of the **Jail No. 17** was held administratively responsible, as well as heads of the same departments, but of **Jails No. 2 and 11** were warned due to the failure to register medical examination of the inmates held in solitary confinement, by physicians of the healthcare units.

In the motions made for the purpose of preventive measures it was recommended to improve custody conditions of prisoners and bring them into compliance with adequate standards; to ensure the right to health of prisoners' under the UN Basic Principles for the Treatment of Prisoners, UN Standard Minimum Rules for the Treatment of Prisoners, European Prison Rules, Code of the Execution of Punishments, Prison IDR and Council of Europe, Committee of Ministers, Recommendation No. R (98) 7 concerning the Ethical and Organizational Aspects of Health Care in Prison.

Construction of modern penitentiary institutions, developing the healthcare system, and inmate correction initiatives are commendable. Newly operated sport complexes in most detention facilities, including prison facility No. 17 are welcomed by us as a progressive achievement in correction of inmates.

This should be noted that reforms being taken in national judiciary system significantly contribute to improvement of the custody conditions and treatment of the inmates, as well as of effectively ensuring the prisoners' rights through supporting the penitentiary system, itself.

### ***2.2.3. Institutions of the Ministry of National Security*** <sup>38</sup>

The **State Security Service TDP and Investigation Isolator** was held 2 scheduled visits.<sup>39</sup> The NPG had access to all, to monitor the detention conditions, records and treatment in the facility. In both visits, the Commissioner participated as an NPM.

The purpose of those visits was to assess the detention condition and treatment, and the ensuring the rights of detainees. .

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<sup>38</sup> State Security and Foreign Intelligence Services of the Republic of Azerbaijan have been established under the Ministry of National Security by the Presidential Order dated 14 December, 2015

<sup>39</sup> See the link <http://az.apa.az/news/383375?keywords=milli+preventiv>

Some of persons who detained in this facility have been interviewed in private. During confidential conversation, the detainees did not complain of the conditions and treatment in the facility, in contrary expressed their satisfaction with the qualified food and healthcare service and being provided with newspapers.

The visits concluded with meeting with the facility administration and they latter was given suggestions for improvement detention condition, treatment and documentation under national and international legislation.

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

NPG visited twice a year the institutions<sup>40</sup> of which a detained person is not permitted to leave at will.<sup>41</sup>

***Disciplinary Military Unit No. "N"*** was visited and the current condition was assessed in order to be sure that previous shortcomings have already been eliminated.

During this visit detention and living condition, organization of their leisure time, ensuring their right to health, nutrition and other issues were inspected interrelated. It was found that prisoners in the facility were treated adequately, natural lighting and cleanliness, accordance with the detention regime were satisfactory, and the number of beds and bed linens, baths and toilets, which were tidy and clean, corresponded with number of prisoners. Prisoners had access to all necessary condition to spend their leisure time.

This should be noted that in compare to previous years, the number of military servicemen detained here decreased. .

In the course of the visit, detention condition, quality of nutrition and treatment were found adequately, as well as necessary condition was created for the organization of leisure time effectively, in addition, repair works were continued in some establishments within the premises of the facility.

While meeting with the detained military servicemen, NPG informed them of their rights, Ombudsman's competences, the existed relevant legislation and regulations. The Group members also answered the questions.

The prisoner military servicemen did not complain of the treatment, detention conditions and quality of nutrition.

Military unit command was given suggestions for better improvement of detention conditions and treatment in accordance with national and international laws.

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<sup>40</sup> See Annex 1, Diagram 1

<sup>41</sup> See Annex 1, Diagram 3

*Bilajari Guardroom of the Military Police of Baku Garrison* was visited by the NPG in order to monitor custody conditions and treatment, including the state of ensuring the rights of military servicemen.<sup>42</sup>

In the course of the visit the relevant documentation, all establishments, including cells, administrative rooms, canteen, bath in the premises of the garrison, as well as the access to drinking cold and hot water, healthcare service, walking were monitored.

Military prisoners had all opportunities in the garrison.

NPG members held a private meeting with the military prisoners confined in the garrison, but they did not complained of the detention conditions and treatment in the facility. It was held a legal awareness for them and explained the Ombudsman's competences.

The visit concluded with the meeting of the administration, which was given appropriate suggestions in the line with national and international laws, including the relevant Constitutional Law, also the military staff have been undergone legal training. .

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

Under the jurisdiction of the NPM, there are two detention institutions under the State Migration Service, which person is not permitted to leave at will<sup>43</sup> and NPG held 3 visits to those institutions under the OPCAT requirements in a year.<sup>44</sup>

The purpose of the visit to *Baku city Detention Center for Irregular Migrants* was to investigate the detention conditions, treatment of detainees, quality of healthcare service, food ration, and the organization of their leisure.

The cells where persons are placed voluntarily were monitored and confidential meetings were held with each of three persons placed there, and their rights and Ombudsman's competences have been explained to them.

Although none of the three persons, one of who was a national of the Russian Federation, and two others nationals of Ukraine had any complaint, it were revealed some deficiencies in the relevant documentation and healthcare service to them.

Hence, pursuant to Article 83 of the Migration Code of the Republic of Azerbaijan, aliens and stateless persons must submit an application to relevant executive body in order to be placed voluntarily in the Center and attach the document certifying identity (if available) to the application. By processing application the relevant executive authority makes decision about the placement of person in the Center or refusal from this. However, while

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<sup>42</sup> See the link <http://az.apa.az/news/408004?keywords=milli+preventiv>

<sup>43</sup> See Annex 1, Diagram 1

<sup>44</sup> See Annex 1, Diagram 3

reviewing the documents of persons placed in the center, no application about the voluntarily and relevant decisions taken by the State Migration Service have been found.

During the visit, detention conditions in the center premises as well as cell placements for volunteers, quality of existed medicines and of food were in satisfactory state.

The facility administration was given suggestions for the elimination of shortcomings in the line with national legislation and international standards.

The NPG members visited Yevlakh city Center for the Detention of Irregular Migrants.

Meanwhile, during the visit, the administrative building, two-floored TDP for voluntarily placed persons, temporary isolator and it was held meetings with the head of the facility and staff.

The visit concluded with the meeting of the facility administration, which was given suggestions with regard to national laws and international standards.

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

Under the OPCAT, the NPG visited 7 institutions of the Ministry of Health falling within the NPM jurisdiction.<sup>45</sup>

The visits were held on the basis of the Law of the Republic of Azerbaijan on Psychiatric Assistance, as well as international standards, including Mental Health Declaration of Human Rights, UN Principles for the Protection of Persons with mental Illness and the Improvement of Mental Health Care<sup>46</sup> and SPT rules, CPT's 3rd General Report (*CPT/INF (93) 12, para. 30-77*). Meanwhile, it was revealed that the facilities needed to improve custody conditions and bring the relevant national laws in comply with the abovementioned international standards. Particularly, the preparing new rules regulating the treatment of persons placed into the psychiatric hospitals in comply with international experience is one of the issues of tremendous importance.

During the visit to *Salyan Inter-district Psychiatric Hospital*, all departments of the health facility, including wards, ambulatory-care rooms, canteen, and fridges were monitored; the date of production and use of the food and medicines stored there were examined; as well as it were held meetings with the physicians, nurses and litter-bearer of the facility.

The purpose of the visit was to assess the quality of healthcare service and treatment in the psychiatric hospital, as well as to check whether

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<sup>45</sup> See Annex 1, Diagram 1 and 3

<sup>46</sup> See UN GA Resolution 46/119 of 17 December 1991

previous shortcomings were eliminated or not and also to determine the issues to be considered. During the visit to the facility, it were held private meetings with each of persons who were being treated in female and male compartments.

During the visit, all wards as well as service rooms, including the room for personal lockers, duty stations, cabinets of physicians, meeting room, shower room, disinfection chamber and the kitchen were checked and examined the condition of the wards, heating, ventilation systems as well as the sanitation.

The visit was concluded with the meeting of the health facility administration, which was given with regard to national laws and international standards.

*Gazakh Inter-regional Psychiatric Hospital* was also monitored by the NPG. During the visit, the wards located in two floors were checked and general condition created for the patients was found satisfactory. Meanwhile, there was no any violation by the healthcare professionals with regard to the treatment of the patients.

However, it was found that the food storage was old and extra humid.

While monitoring the laundry of the hospital, it was found that this place needed a repair, did not comply with sanitary norms and it lacks of sufficient shelves for clothes; furthermore, a facility had a new small water pool for manual washing. In addition, among the existed washing machines only one was working.

The small meeting room in the health facility, which was approximately 9 km, was not in comply with irrelevant inventory such as a fridge, and extra table and chairs, was very tiny that was unsuitable for holding several meetings at the same time.

At the same time, records book of the hospital, including records of medical referrals to Medical Social Expert Commission (MSEC), records of patients being treated in stationary, records of referrals from departments on mobilization and conscription and records of restriction (fixation) were checked.

While reviewing the records of restrictions applied to the patients, it was revealed that the duration of restriction and in general, all other restrictions were not drawn up by the physicians.

The chief physician of the hospital was informed of this case, which created the possibility for such ill-treatment and abuse and was given suggestion for improvement of the custody.

During the visit to the Ganja City Psychiatric Hospital wards, ambulatory-care rooms, kitchen, fridge, and the date of production and use of the food and medicines stored in, were checked; apart from, healthcare



professionals, including physicians, nurses and bearers were held meetings to identify their treatment of the patients.

The hospital building, area, canteen, kitchen, food storage were monitored; and the wards and staff rooms of the two-story hospital were in satisfactory state.

In addition, it was found that a bathroom and toilet in the male compartment were needed in capital repairing. As well as the beds found in the corridor was attributed by the administration of the hospital to the lack of space.

While reviewing the three day menu of the hospital, it was revealed that the patients were subjected mainly to the same diets daily.

The visit was concluded with a meeting of the administration of the facility and was given suggestions about elimination of the shortcomings in complying with national laws and international standards.

During the visit to Ganja Inter-district Addiction Medicine Clinic, staff rooms, wards, operating room, drugstore, food storage, bathroom, room for soft inventory and whole clinic area were monitored; and it was detected that the clinic building, and the beddings as well as other things in wards of the ambulatory-care department were in old and not in a good condition, clinic failed to create minimum favorable treatment condition for patients, there were strong smell, humidity and untidiness inside the clinic, as well as there was heating system installed and it failed to create any favorable condition, including lack of TV, sport facilities and etc. in order to organize a leisure time of the patients.

At the end of the visit, the administration of the health facility was given suggestions for eradicating the existed shortcomings under the national legislation and international standards.

It was held a visit to *Sheki Inter-regional Psychiatric Hospital*. This Hospital covers Sheki, Oguz, Gabala, Gakh, Zagatala and Balaken districts.

Meanwhile, it was found that the Hospital needed a repair and the wards were heated through the heating system installed in the corridors. The chief physician of the hospital stressed the importance of construction of a new building, of provision with a vehicle and of 2 psychiatrists.

At the end of the monitoring, the administration of the health facility was given suggestions with regard to elimination of shortcomings in comply national legislation and international standards.

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

Within 2015 year, NPG members conducted 27 *ad-hoc* and scheduled visits under the OPCAT to the institutions being under the jurisdiction of the Ministry of Education, which persons is not permitted to leave at will.<sup>47</sup>

The visits were conducted in comply with national legislation, including the Law of Azerbaijan on Child Rights, as well as UN Convention on the Rights of Child (CRC), Convention on the Rights of Persons with Disabilities (CRPD), SPT's Rules, CPT's standards and taking into account international experience it was considered the importance of advancement of the conditions and bringing the national legislation into line with the abovementioned international standards.

The visits were conducted to Boarding School No. 5 with Limited Health Capacities and Special Boarding School No.3.

The purposes of those visits were to monitor the state of preparedness in those facilities on the eve of the 15th September- Day of Knowledge, and living conditions and treatment of children who inhabited and those accepted to the facility for the first time.

In the course of separate conversations with the children, including those to be accepted to school for the first time, teachers and tutors; all establishments of the facilities were monitored; the state of preparedness for the upcoming year; current condition and treatment of the residents of the facility; repair and renovation works; and provision of children with educational tools were found satisfactory.

The visit was concluded with a meeting of the principal of the boarding school who was given suggestions on the basis of national laws, international standards, including CRC.

During the visit to *Guba Special Vocational School* dorms, class rooms, training rooms and lounges, library, kitchen, canteen, bathroom, administrative rooms and the facility area were monitored; living conditions, treatment of children, the state of education and the organization of the leisure time were inspected.

Children residing in the facility were held private meetings; they were interviewed about the treatment, guarantees and living conditions and also were legally consulted. Children did not complain about the treatment in the facility.

Currently, it was deemed necessary to draft new act of the facility, regulating the activity of the vocational school, which was under the jurisdiction of the Ministry of Education and to comply the living conditions with international standards and with interests of the adolescents, also the

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<sup>47</sup> See Annex 1, Diagram 1 and 3

Commissioner submitted the recommendations and suggestions in relation to this question.

At the end of the visit, NPG members made the relevant suggestions to the principal of the school on the basis of national legislation and international standards, including CRC.

It was held a visit to ***Guba City Secondary Boarding School for Children deprived of Parental Care*** in accordance with the OPCAT. During the visit, the NPG members monitored the dorms, class rooms, training rooms and lounges, kitchen, bath, and the administrative area of the facility, as well as the general area; living conditions and treatment of the children, state of the education and organization of the leisure time.

Some group of children residing in the facility, were held private meetings and checked the treatment guarantees and conditions in the facility. The Children did not voice any discontent about the condition and treatment in the school.

The main building of boarding school was closed for repairing, the contingent of the school was temporarily placed in the building of kindergarten located in Zardabi settlement of Guba city.

There is a necessity to speed up the construction works due to fact that the mentioned building was not suitable for a boarding school.

At the end of the visit, the principal of the boarding school was made instructions by the NPG members in the line with national and international laws, including CRC.

It was held a visit to ***Siyazan City Secondary Boarding School***. In the meantime, dorms, classroom and training rooms, kitchen, bath, staff rooms, gym and the general area of the facility were monitored; living condition, treatment, state of the education and organization of leisure time were checked.

78 children were met in the facility and treatment, guarantees and condition were checked. They were informed their rights and they did not complain of the condition and treatment in the facility.

The visit was concluded with the instructions of the facility administration on the basis of national and international laws.

It was held 2 planned visits to Lankaran City Mixed Boarding House named after O.Mirzayev and Special Boarding School for Children with Health Disorders.

During the visit, NPG members aimed at treatment of children and the general condition of both facilities under the OPCAT. Meanwhile, dorms, classroom and training rooms, kitchen, bath, staff rooms, the institutional area were monitored; living conditions, treatment, state of education and organization of leisure time were organized.

Some group of children in the facility was met privately and it was questioned about treatment, guarantees and conditions; they were informed about their rights. Children did not complain about their condition and treatment.

At the end of the visit, the administration of the facility was instructed in accordance with national and international laws.

NPG visited Sheki Mixed Boarding School under the OPCAT.

During this visit it was found that due to complex repair works in Sheki Mixed Boarding School, the contingent of the boarding school was temporarily moved to Sheki Mixed Boarding House.

In the course of the conversation with director of this boarding school, he told that the repair works have had to be completed until the end of the year and therefore, the children were moved to the nearest schools to continue their academic year for 2015-2016 years.

In the meantime of the repeated monitoring, it was revealed that the repair works of the school were not completed in due time. Taking into account this fact, the Commissioner was deemed necessary to accelerate the repairing process and gave her necessary suggestions.

The visit was concluded with a meeting of NPG and the administration of the institution and the latter was given suggestions in relation to improvement of the condition and treatment in comply with national and international laws, including CRC.

**Zagatala City Boarding School** was also visited by the NPG. In the meantime, no problem with heating system was found in the institution. Furthermore, it was found that the principal of school requested the Ministry of Education with regard to repairing. At the end, NPG made suggestions to the principal in the line with national and international laws, including CRC.

During the visit to **Balaken City Secondary Boarding School**, it was found that for repairing this school was also temporarily moved to Balaken Technical Vocational School.

A group of children was held private meetings in order to determine the state of the condition and treatment of the facility. They did not complain about condition and treatment. In the course of the conversation, the group members answered to their questions and informed them about their rights. Consequently, the condition and treatment was evaluated as satisfactory by the Group members, and it was found that all necessary conditions were created for education of children, fulfillment of their homework and organization of the leisure time.

The visit was concluded with a meeting of the principal of the school and the latter was given suggestion in complying with national and international laws, including CRC.

It was held scheduled visit to Ganja City Sanatorium Type Boarding School.

In the meantime, the area of the boarding school, its dorms, and other education establishments were monitored; it was observed that repairs were continued in two buildings of the facility.

Besides, due to lack of the installation of the heating system on the first floor of school, the rooms were temporarily heated by electric heaters. According to the school administration, the facility is going to be exploited after the entire repair works completed.

Furthermore, it is considered to give opportunity for children from low income families to stay in the dormitory overnight after the repair works completed.

During the visit, the administration of school was suggested to progress the cooperation with Ombudsman's Ganja Regional Office and teaching child rights to children.

As a consequence of the previous visit held by NPG members, kitchen and canteen of the boarding school were repaired and opened for use. The visit was concluded with a meeting of a principal of school who was made suggestions in comply with national and international laws, including CRC.

### ***2.2.8. Facilities of the Ministry of Labor and Social Protection of Population***

During 2015, the NPG members held scheduled and *ad-hoc* visits to 6 facilities out of 8, which are under the jurisdiction of the Ministry under the OPCAT.<sup>48</sup>

The visits were conducted in comply with national legislation, including the Law of Azerbaijan on Psychiatric Assistance, as well as CRPD, Mental Health Declaration of Human Rights, UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care, UN Principles for Older Persons<sup>49</sup>, UN Recommendations on Implementation of the International Plan of Action on Ageing and related activities<sup>50</sup> and SPT's Rules and it was deemed necessary to advance the living conditions as well as to harmonize the national legislation with the abovementioned international standards.

The visits were paid to Social Care Institution No. 1 for Children with Limited Health Capacities, Therapeutic Boarding House for Persons with Disabilities, as well as Psycho-Neurological Social Care Institution No. 1.

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<sup>48</sup> See Annex 1, Diagram 1 and 3.

<sup>49</sup> United Nations Principles for Older Persons, adopted by General Assembly resolution 46/91 of 16 December 1991

<sup>50</sup> UN GA Implementation of the International Plan of Action on Ageing and related activities, A/RES/46/91 adopted at the 74th plenary meeting, 16 December 1991

In the course of the visits paid, the Group members checked treatment rooms and dorms, canteens, kitchen and the entire area of the institution; they also met with children and adults with disabilities.

It was found that the **Therapeutic Boarding House for Persons with Disabilities** was repaired and new drinking water pipes were installed. Other two buildings' repair were completed and renovation work was carried out. All these enable the residents in the institution to be provided with better living conditions, qualified food and treatment.

Persons interviewed, did not complain of the conditions and treatment.

The administration of that social-care institution was made suggestion in relation to improve the conditions in the line with national and international laws, including CRPD.

The purpose of the visit paid to **the Boarding House for the Disabled Persons of War and Labor** was to assess the treatment of residents, including older persons, conditions, nutrition and healthcare service in the institution by the NPG members.<sup>51</sup> During this visit all departments of the institution were monitored, residents were interviewed and met face-to-face. Furthermore, in the meantime, it was revealed that the social-care institution considered the previous recommendations, which led to repair and renovation works and improvement of the condition.

In the course of the visit, it was deemed necessary to eliminate some impediments at the institutional level, such as creating a database on outgoings and arrivals of residents and their visitors; improving the provision and documentation of daily food ration per person; accommodating persons with partial or full mobility impairments in lower floors and easing access to the first aid.

As a consequence of the monitoring, it was found that the institution at nights failed to provide first aid for the elderly persons residing in the facility if that would be necessary, particularly, medical tools and medicines were not well-stored in the related department and they were out of date; sanitary and hygienic conditions was not in a satisfactory condition. Therefore, the Commissioner gave her instructions related to provision of information boards on the relevant instructions and rules, including information displaying the duties for administrative or other staff members; segregation of desks for the night shift staff members, and provision of elderly persons with mobility impairments with communication services in their rooms allowing them to contact with the person on duty.

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<sup>51</sup> See the link <http://az.apa.az/news/376369?keywords=milli+preventiv>

As a result of the previously given suggestions, in the social care institution it was created a record book for outgoing and arrivals of residents; persons who lost their mobility fully or partially were accommodated on the first and second floors; medicines, bandages and other medical supplies were well-stored in the related department; night shift work of healthcare professionals strengthened and their work was taken under strict control. Aside this, a night shift of one physician and two technical staff was comprised in the institution.

The head nurse of the institution was instructed to keep records for injuries and to separately document them. Furthermore, the medical department was also instructed to classify the diagnosis of residents of the institution, which was taken into consideration.

The food was classified and separately stored in the storages. Night shift staff members were provided with a separate room and it was considered to allocate extra budget for installation of the relevant device allowing the residents to contact with persons on duty.

The institution administration was given suggestions in relation to improve the living and treatment conditions in comply with the UN Principles for Older Persons and UN Recommendations on Implementation of the International Plan of Action on Ageing and related activities.

Under the requirement of the OPCAT, NPG members visited Ganja City Center of Territorial Social Service for Pensioners.

During this visit, it was seen that the center was under repair and therefore, the institution was fully empty. The administration of the institution temporarily accommodates the residents of the center in Psycho-Neurological Social Service Center No. 1 of Buzovna District of Baku city, Shamakhi City Psycho-Neurological Social Service Center No. 2 and Goygol Psycho-Neurological Social Service Center No. 3.

The administration was given necessary suggestion with regard to further improve the living conditions and harmonize them with international standards.

NPG members visited Psycho-Neurological Social Service Center No. 3 under the OPCAT. During the visit all establishments were monitored as well as some impediments were found.

Thus, the old building of facility was in need of complex repair, bathrooms were not met sanitary and hygienic requirements, medical service was not in satisfactory state and there was no appropriate condition for sport. However, there was a walking area and TVs in each of stories of the institution.

The administration of such social service institutions were given suggestion in relation to improving with national laws and international standards, including CRPD.

### **2.2.9. Institutions of the local executive powers**

During 2015, under the OPCAT, NPG members conducted scheduled and *ad-hoc* visits to the institutions in Baku and regions of the country which were under the jurisdiction of the local executive bodies and NPM.

NPG visited **Baku City Boarding Child Houses No. 1 and 2**. The purpose of the visits held on the eve of the day of Knowledge – 15th September was to assess the process of preparedness of children, living conditions and treatment of the resident children or those who were accepting for the first time to those institutions.

In the meantime, within the Ombudsman's competence as an NPM, it was found that the previously given suggestions were taken into consideration and the institution was repaired and renovated to advance the condition.

During the meetings with minors, including students accepted to the facility for the first time, teachers and trainers in the institution; they were congratulated on the occasion of the Day of Knowledge; each of children and trainers were held private meetings.

The children residing in the social care institution did not complain of their condition and treatment.

At the end of the visit, the administration of the institution was given relevant suggestions.

NPG held visits to **Ganja City Boarding House** on a scheduled and *ad-hoc* basis. During the visit, due to the fact that school-aged children were at school, only 3 and 5 year minors were met and their general condition, including clothing, heating system, cleanliness of the beddings, visual materials and etc. was found in a satisfactory condition.

Meanwhile, it was found that, dorms, psychologist's cabinet, room for paintings, IT room, kitchen, canteen, storage and in general the entire institution was clean and tidy.

This also should be noted the Ombudsman's Ganja, Sheki, Jalilabad and Guba Regional Offices continued such visits to the abovementioned social-care and boarding institutions.

During the visits in Baku and regions, all establishments of those institutions were monitored; the current condition, treatment of children, state of repairing and renovating works and provision of children with educational tools were checked.

**Sheki City Mixed Child House** was held visits by the NPG under the OPCAT.



In the course of the visit, it was deemed necessary to repair the institution and to provide it with sufficient number of medicines. Such impediments were brought to the attention of the administration of the facility as well as the local executive body and were given necessary suggestions.

The visit was concluded with the meeting of the administration which was made suggestions by NPG with regard to further improving the living conditions and treatment in comply with national and international laws, including UN CRC.

## CHAPTER 3

### Legal Analysis

Pursuant to international documents dealing with human rights, the principle of prohibition of torture or other cruel, in-human or degrading treatment and punishment shall not be derogated from as a universally recognized *peremptory norm*.<sup>52</sup> This principle closely interlinked with the right to liberty and security of a person and doubtless, such cases should be prevented.

Thus, one of the key obligations of the Ombudsman as an MPM is to provide efficiency of the activity in the field of prevention of torture. Suggestions and recommendations prepared on the basis of legal analysis of the norms violating the interests of persons deprived of their liberty in this or other manner are sent to the corresponding state authorities and mainly are taken into consideration.

As one of the preventive measures for ill-treatment, the Commissioner also suggests strengthening the control over ensuring of three rights of those who are taken into police custody, to which the CPT attaches particular importance, which include:<sup>53</sup> 1) the right of the person concerned to have the fact of his detention notified to a third party of his choice; 2) the right of access to a lawyer, and 3) the right to request a medical examination by a doctor of his choice (this right in addition refers to any medical examination carried out by a doctor called by the police authorities).

Hence, these fundamental safeguards are of vital importance for ensuring effective legal system against claims or evidence of ill-treatment. The European Court of Human Rights (ECtHR) may hold that the failure to ensure the safeguards was due to “*an omission in the investigation*”.<sup>54</sup>

Aside this, it is necessary to inform persons taken into police, without delay of all their rights to ensure efficiency in promotion of those rights. CPT recommends to provide all persons detained with a standard document displaying all these rights and to obtain their signature that they are informed of their rights.

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<sup>52</sup>Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; European Convention on Human Rights; and International Covenant on Civil and Political Rights

<sup>53</sup> 2nd General Report on the CPT's activities; CPT/Inf (92) 3 [EN] - Publication Date: 13 April 1992, para.36

<sup>54</sup> *Algür v. Turkey*, no. 32574/96, § 44, 22 October 2002); *BATI AND OTHERS v. TURKEY* (Applications nos. 33097/96 and 57834/00), 3 June 2004 Judgement

The Commissioner welcomes legal and institutional reforms taken in law-enforcement bodies of the country and measures for improvement of the relevant activity, as well as recommends strengthening control over the activity in the concerned field and eliminating the impediments.

Along with the applications received by the Ombudsman, during the visits held to investigation isolators, the accused persons complained of the fact that while being in TDPs, their applications were not sent either to the Ombudsman or another bodies; bureaucratic hindrances have been created to criminal investigations commenced by the relevant bodies of the MIA; they were not able to meet with the investigators during the process of investigation and as a rule, met when their detention period was extended; and they were subjected to pressure. It was found that immediately after the detained person taken into police custody, his relatives or legal representatives were informed of his/her detention.

Taking into account the abovementioned aspects, it was recommended strengthening the control over the prevention of such cases and elimination of the impediments.

Legal reforms taken in the national justice system and measures for the improvement of the services in penitentiary institutions are welcomed, however, several steps must be taken in the relevant field.

In 2015, it was also found the violation of confidentiality of correspondences written by the prisoners to their lawyers or legal representatives, to the bodies supervising the activity of penitentiary institutions and to the Commissioner, including the responses which have been subjected to censorship.

Similar cases have been found in other jails and investigation isolators as well. Most of the applications submitted by the penitentiary institutions to the Commissioner were accompanied with a cover letter signed by the directors of those institutions, and the letter in a sealed envelope sent to the accused person or a convicted was enclosed to their personal cases only after opening the envelopes and obtaining the detainees signatures with regard that the latter was informed of the content of the letter.

The above noted cases breach the Article 8.5 of the Constitutional Law on Ombudsman and Articles 83.2 and 83.5 of the CEP. This should be noted that applications, sent to the authorities empowered to supervise the penitentiary institutions as well as to the Ombudsman, including the response letters shall not be subjected to censorship and necessary preventive measures shall be taken.

According to international experience, the right to respect for one's private correspondence is also vital importance for ensuring the access of the information about ill-treatment to the corresponding bodies. States

should ensure the right of a prisoner to his private correspondence to the related authorities.

CPT considers ensuring the correspondence about any claims of ill-treatment or the information to the corresponding authorities and taking additional measures in this regard. Thus, *“apart from the possibility for persons to lodge complaints directly with the agency, it should be mandatory for public authorities such as the police to register all representations which could constitute a complaint; to this end, appropriate forms should be introduced for acknowledging receipt of a complaint and confirming that the matter will be pursued”*.<sup>55</sup>

The outcomes of the monitoring of the application of instruments of restraint as well as the analysis of the legislation show that the institution controllers can abuse their powers during application of such special instruments. This closely interlinked with the lack of the related legal norms and to this end, the possibility of persons in police custody to be subjected to ill-treatment or punishment increased.

In this regard, the Commissioner recommends bringing “the Guidelines on Security Measures and their Application in the Penitentiary System of Azerbaijan“ in comply with the UN Standard Minimum Rules for the Treatment of Prisoners, European Prison Rules and the CPTs standards in relation to determining the duties of the penitentiary staff members while applying such an instrument of restraint as well as the application methods.<sup>56</sup>

The complaints addressed to the Ombudsman by the prisoners also reflect the impediments with regard to bureaucratic hindrances to the access to lawyers and the fact that despite an agreement about legal aid exists between the requested person and a lawyer, it was required a letter of authorization issued by the Penitentiary Service. It is necessary to eliminate such cases and to take preventive measures.

During the visits to investigation isolators held by the NPG, it was found that the criminal investigation authorities more and more have ordered the measure of restraint for the accused persons.

Taking into account the abovementioned, the Commissioner considers necessary to focus on restraint alternatives of defendants in criminal cases instead of the conviction,<sup>57</sup> particularly, juveniles, pregnant women, and women with infants, PWDs, and the elderly must be given privileges.

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<sup>55</sup> 14th General Report on the CPT's activities, CPT/Inf (2004) paras. 28-38

<sup>56</sup> UN Standard Minimum Rules for the Treatment of Prisoners, para. 33; European Prison Rules, paras. 68.2 and 68.3;

<sup>57</sup> Article 9 (3) of the International Covenant on Civil and Political Rights states that “Anyone arrested or detained on a criminal charge shall be brought promptly before a

These issues have been expressly underlined in the annual reports by the Commissioner<sup>58</sup> and motioned to the Office of the Prosecutor-General to take preventive measures against such cases.

During the receptions and in their complaints, the persons subjected to restraint, particularly, juveniles complained of that in some cases they cannot meet with their investigators and were able to meet with them only near to the end of the detention period coming to inform about the extension of the detention period. Such cases were revealed while reviewing the relevant records in the investigation isolators.

Furthermore, extension of investigation period in most cases, being a choice of restraint measures as one of the main elements, the extension of this period several times lead to over-crowdedness in the investigation isolators, worsening the custody conditions, and increasing the exposure on criminality among the juveniles. This underlines the significance of the broad application of alternative preventive measures.

This issue also was on the agenda during the 56th session of the CAT held in November, 2015 considering the State Report of Azerbaijan submitted with regard the relevant Convention.

Aside this, the Article 9 (3) of the International Covenant on Civil and Political Rights (ICCPR) to which Azerbaijan is a party, states that it shall not be the general rule that persons awaiting trial shall be detained in custody.

Moreover, according to this norm, focusing on restraint alternatives of defendants in criminal cases instead of the conviction and giving privileges to the juveniles, pregnant women, and women with infants, PWDs and the elderly are of vital importance.

Also, in the investigation isolators the accused persons complained of the quality of the legal aid work of the state funded lawyers in the course of the criminal proceedings and that no steps related have been taken.

Considering the above notes and recommendations made by the UPR Working Group of the UN Human Rights Council to State Reports of the Azerbaijani Government, the Commissioner suggests to consider the UN Bangkok Rules<sup>59</sup> in respect of women.<sup>60</sup>

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judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.”

<sup>58</sup> See the link <http://www.meclis.gov.az/?/az/report/77>

<sup>59</sup> United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);

This regretfully should be noted that as it was stated by the NPM in past years, some norms of the Annex No. 4 to the Regulations of Garrison and Guard Services of the Armed Forces, regulating the detention in guardhouses, which did not meet international standards are still in force.<sup>61</sup> Hence, in 17 and 21 paras. of the noted Annex, soldiers and officers are discriminated between. According to some norms soldiers (sailors) should not be provided with beddings and can only sleep on a bed without mattress, whereas unlike them, officers and ensigns should be provided with mattress and other beddings.

Furthermore, the para. 19 is also not in comply with international standards, because according to this norm, soldiers (sailors) administratively detained and held in common cells (many detainees are held together) of the guardhouse are involved into 10 hours chores during a day. Despite fact that these norms are not at present applied in the practice, it is undesirable to be this Annex in the force and it deemed necessary to make amendments by reviewing the document.

In addition, this should be noted that the appropriate package of proposals has been prepared to amend the Cabinet of Minister's draft decision on Approval of the IDR of Centers for Irregular Migrants, draft law of the Republic of Azerbaijan on Status of Refugees and IDPs as well as Migration Code with regard to implementation of the National Action Plan on Fight against Human Trafficking in Azerbaijan for 2014-2018 years and sent to different authorities, most of which were taken into consideration.

In addition, the draft law of the IDR of Centers for Irregular Migrants is currently under review. The approval of these Rules is of vital importance from the perspective of determining the rules in relation to the regime of custody condition, ensuring the rights of detainees and fulfillment of the staff duties in such institutions.

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<sup>60</sup> Report of the UN Working Group on the Universal Periodic Review dated 5th July 2013, (para. 109.95);

<sup>61</sup> According to the Law on Approval of the Regulations of Garrison and Guard Services of the Armed Forces, The Regulations came into force on the 1st January, 1995

## CHAPTER 4.

### Legal Advocacy

Legal advocacy is one of the priorities in the activity of the Commissioner as an NPM. Taking into account the positive contribution of legal education of the law-enforcement authorities into more efficient protection of human rights, it was decided to organize such awareness events and trainings on a regular basis.

During a year, it were organized awareness events and trainings on human rights, national and international legal acts, treaties, including CAT, international standards for child houses and boarding schools, secondary and higher education institutions, various state authorities, training centers for military servicemen, law-enforcement academies, military units and jails.

At the initiative of the Ombudsman and according to para. 4.1. of the National Action Program (NAP) on Raising Effectiveness of Protection of Human Rights and Freedoms in the Republic of Azerbaijan, it were held awareness activities for the law-enforcement bodies, other related authorities, lawyers and non-governmental organizations dealing with law issues on CAT and the OP, thereto; and broad discussions organized in the academies of law-enforcement, Police and Ministry of Justice.

Furthermore, with regard para. 4.2 of the above noted NAP and according to the OPCAT, it were launched awareness and other events to effectively implement national preventive mechanism functions and the corresponding authorities were requested accordingly.

This should be noted that NAP significantly contributes to new priorities in harmonization of legal and normative acts with international human rights standards, developing new cooperation strategies with international institutions, advancing the professional capacity of state authorities in the field of human rights, extending the legal awareness activities, developing the citizen-state relations and in determining new angles for better improvement of human rights and freedoms.

Within 2015, the Commissioner in collaboration with UNICEF, Police and Ministry of Justice organized academies awareness and capacity building seminars titled “Fair Trial of Juveniles (Juvenile Justice)” for judges, prosecutors, police, justice and local executive bodies in 10 regions covering over 30 cities. In these awareness events held with presence of the NPG members as well, the attendants were delivered lectures on national and international standards of preventive measures of torture, and made interactive discussions.

In Baku, it was held a round-table on alternative punishment measures to prison sentences organized by Penal Reform International (PRI) South Caucasus Office with participation of state authorities, non-governmental organizations and human rights defenders. This meeting focused on the issues of application non-custodial alternative measures. The Ombudsman Office was represented by the Head of the Department on Prevention of Torture and Head of the NPG, Mr. R. Rumzada, who also reported with a speech and a Group member, Mr. Vugar Heydarov.<sup>62</sup>

The participation of the state authorities in this awareness event was effective from the perspective of discussion of the impediments. Furthermore, it were made discussions on probation service as an instrument for making fair decisions as well as for ensuring information and legal advice to other law-making authorities, depending on the national system, assistance to the state authorities with regard to preparing for supervision of the law offenders in the process of their release or transferring, while they are in custody; control and assist to those early released.

Issues of social sanction on and measures for law offenders, their social inclusion, public order security were also on the agenda of the discussion. NPG members reported that reforms and effective cooperation of governmental and non-governmental organizations as an integral part of the criminal enforcement policy are making input to the concerned field.

In Ganja city, the Working Group on Juvenile Justice under the Commission on Minors Affairs and Protection of their Interests under the Cabinet of Ministers of Azerbaijan consisting of representatives from state authorities, international and national non-governmental organizations held workshops and legal awareness on ensuring access to justice for children.

New approaches to the activity of the Commissions on Minors Affairs at the local executive bodies, international good practices, evaluation status of influences of reforms in juvenile justice system to minors in conflict with the law and existed difficulties have been main topics of discussion. The head of the NPG reported in the meetings about the Ombudsman's activity in a capacity of NPM for prevention of child abuse, and for support to improvement of juvenile justice policy, national legislation and the relevant experience, and legal reforms, preventive measures, current challenges. The event focused also on the issues of legal awareness of the police, prosecutorial agencies, judiciary and other corresponding authorities to make fair decisions, making improvements in organization of the work with persons conducted unlawful behaviors and juveniles as well as their social adaptation.

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<sup>62</sup> See the link: <http://az.trend.az/azerbaijan/society/2373094.html>



NPG members got familiarized with the work of Social Rehabilitation Center created in Ganja city in cooperation with "Ümidli Gələcək" (Reliable Future) Youth NGO, Ombudsman Office and state authorities and with support of UNICEF, and made suggestions and recommendations.

With support of UNICEF, it was held a round-table discussion in Baku titled "Access to Justice for Children" for state authorities, judges, international and non-governmental organizations. The event focused on the issues of good practices in Eastern Europe and Central Asia, evaluation of the influences of judiciary reforms in juvenile justice system to the children in conflict with the law and exchange of relevant experiences.<sup>63</sup>

Furthermore, experts from various UN agencies and Georgian Probation Service and head of the NPG of the Azerbaijani Ombudsman reported about possibilities for access of children in conflict with the law to legal and social services as well as the reforms.

Participation of the relevant state authorities, non-governmental organizations, international experts, mass media in that event became also effective from the perspective of increasing legal awareness and discussion of the existed challenges. It was given comprehensive information about Ombudsman's activity as an NPM, work for prevention of child abuse and for support to legal reforms, preventive measures, as well as her proposals submitted to the corresponding authorities to improve national legislation and the relevant experience.

It has been discussed in the event the issues of organization of the probation work in various countries, increasing awareness of judiciary and other corresponding authorities for making fair decisions, early release of persons conducted unlawful behaviors and of juveniles out of places of which persons are not permitted to leave at will and social adaptation issue of such persons.

In addition, in the frame of the EU Project on Asylum System Quality Initiative in Eastern Europe and South Caucasus, which has been started since two years, it was held range of activities within the cooperation of the Ombudsman Office, UN High Commissioner for Refugees (UNHCR) and State Migration Service. Subsequently, throughout 2015, it was organized training in Bilasuvar, Jalilabad, Astara, Lankaran, Guba, Gusar and Khachmaz regions, for security department of International Airport named after Heydar Aliyev and law-enforcement authorities. Main purposes of this training were to better improving the knowledge and professional capacities of civil servants specialized in asylum and migration issues.

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<sup>63</sup> See the link:

<http://www.ombudsman.gov.az/view.php?lang=az&menu=94&id=1770>

In the frame of the Ombudsman's NPM activity, it has been made more attention to increasing professional capacity of NPG members. At the initiative of the Ombudsman and in collaboration with the UNICEF Baku Office, it was held five-day training for NPG and Regional Offices of the Ombudsman titled "Increasing Monitoring Skills in Child Rights". UNICEF international experts Mr. Reidar Hiernann and Ms. Anna Nordenmark were involved into the training as experts and they shared their relevant experience.

It were held discussions about human rights-based approaches to child work, international child rights standards, juveniles and children residing in social-care institutions, interviewing of children and application of various methods to obtain necessary information from them and on other issues; it were organized team works, practical experience and final observations.

NPG members gave broad information to experts about their activity, effective multilateral cooperation of the Commissioner with well-known international human rights institutions, such as UNICEF. It was also reported that during the visits to the places which persons cannot leave at their own will, including TDPs, penitentiary institutions, investigation isolators, correction facilities, boarding houses for the elderly and PWDs, psychiatric institutions, NPG held meetings with the detainees, including children, learned their situation of custody condition, health care service, treatment in these facilities, also persons and staff members met, were given legal advice and were trained accordingly.

In the frame of the training, the participants visited the Special Boarding School No. 6 for Speech Impaired Children under the Ministry of Education located in Turkan settlement of Baku city as well as the Correctional Institution of Penitentiary Service of the Ministry of Justice. They met with children resided there.

At the end of the training, the outcomes of the monitoring were discussed; the work of the Azerbaijani NPM was highly evaluated by international experts and considered to continue the cooperation in the future.

## CHAPTER 5

### Public affairs and International Cooperation

Commissioner cooperates with local, regional and international organizations within her mandate under the Constitutional law. Thus, the organization of the work in public affairs and international cooperation is one of the key priorities of the Azerbaijan NPM activity.

By 2015, exchange of views and cooperation with state and self-governing organizations, local civil society institutions, mass media, regional and international organizations, including foreign NPMs and joint projects were successfully continued.

Within a past period of time, both national and international communities were regularly informed about the activity of Azerbaijan NPM.

In general, during 2015, in mass media it has been released 68 press releases, 54 of which were dealt with the monitoring and 14 with legal awareness activities.

Totally, within 2009-2015 years out of 695 released news 433 were about visits, whereas 262 were about news of awareness.

Press releases, NPM Reports, the information on the NPG composition, related normative acts were placed on the official webpage of the Ombudsman Office in Azerbaijani and English languages. Besides placing the reports on the internet, they were also submitted to the relevant state bodies and international organizations.

The relevance and statistics of the appeals to the Ombudsman and the information received by 24-hour hotline, from human rights defenders, mass media or facts ascertained through inspection directly on the spot or received by the state authorities given the instructions to investigate, collected materials were used during the visits. Moreover, Ombudsman's staff visited the persons whose names repeatedly indicated in press, those detained or persecuted on a regular basis.

The information related to the monitoring was released through mass media and placed on the official website.

In 2015, evidently, Azerbaijan NPM developed its relations not only with state authorities, international institutions and non-governmental organizations but also with mass media in the field of prevention of acts of torture.

***International cooperation.*** The Commissioner also as an NPM, closely cooperates with various UN agencies and its Treaty based bodies, including CAT, SPT, CPT, CoE, EU, Organization for Security and Co-operation in

Europe (OSCE), APT and other international institutions, as well as foreign NPMs, and shares her experience in the concerned field. During in 2015 the extension of international relations and exchange of views significantly influenced to the NPM activity.

Organization of various meetings, holding joint events, and participation of the Commissioner and her NPG in international events and exchange of experiences in the field of prevention of acts of torture can be the best example for international cooperation of the Ombudsman in a capacity of NPM.

Apart from, this cooperation includes various trainings for advancement of NPM activity and increasing the professional capacity organized in cooperation with UN agencies and SPT, in particular, as well as Twinning Project run in partnership of German and Polish Governments with support of EU, meetings with participation of SPT, CPT, APT representatives and other NPM experts and exchange of views.

Throughout 2015, the Commissioner and NPG members participated in international events held with participation of international organizations, experts and foreign colleagues.

The delegation of International Federation for Human Rights (FIDH) and World Organization Against Torture (OMCT) was received in the Office.

In this meeting, which was held with presence of NPG, the delegation was informed about human rights reforms in the country, national action programs, Ombudsman's activity as an NPM and other human rights activities as well as the cooperation with civil society institutions and international organizations.

PRI South Caucasus Office organized a workshop in Baku with participation of state authorities, non-governmental organizations and human rights defenders and the Ombudsman staff, where it was discussed the issues of application of non-custodial alternative punishment measures to prison sentences.

The Commissioner met with Mr. Jan O. Haukass and Mr. Michael Georg Link from OSCE Office for Democratic Institutions and Human Rights (ODIHR).<sup>64</sup> In the meeting monitoring in police stations, TDPs, and jails and protection of detainees' rights issues were main topics for discussion and the experts highly appreciated the Azerbaijani NPM activities.

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<sup>64</sup> See the link

<http://www.ombudsman.gov.az/view.php?lang=az&menu=33&id=1764>

Apart from this, the Commissioner met with the delegation of CoE Committee of Ministers' Group of Rapporteurs on Democracy, headed by Mr. Alexander Gussel. In the meeting, it has been mainly discussed the issues of ensuring fundamental human rights and freedoms, development of civil society institutions and non-governmental organizations, improvement of the relevant national legislation, bilateral cooperation, situation in penitentiary system and the NPM activity.

Also, the SPT delegation headed by Ms. Aisha Shujune Muhammad paid visit to the country to monitor the places of which persons are not allowed to leave at will. At the meeting, the guests were given broad information about Ombudsman's NPM activity, including the monitoring in the places of which persons are not allowed to leave at will, such as prisons, TDPs, education, health and social-care institutions, proposals made to the state authorities in relation to improve the relevant legislation, legal awareness activities, NPM's best practice and discussed the future perspectives of the bilateral cooperation. The delegation members were presented NPM Reports.

In the meeting with the CPT members experts Mr. James McMANUS and Mr. Alexander Minchev the issues on NPM activity, in the places of which persons are not allowed to leave at will, such as prisons, TDPs, education, health and social-care institutions, proposals made to the state authorities in relation to improve the relevant legislation, legal awareness activities, NPM's best practice and discussed the future perspectives of the bilateral cooperation.

In 2015, CoE Fact-Finding Mission Ms. Tanja Rakusic Hadzic and Mr. John McAllen were received by the Ombudsman in the Office. The meeting was focused on the NPM activity, the monitoring in places, which are not allowed to leave at will, such as penitentiary institutions, TDPs, investigation isolators, social-care institutions, including boarding houses for the elderly and PWDs, psychiatric clinics and the relevant measures taken. The Commissioner told about her collaboration with state authorities, non-governmental organizations, mass media, international organizations, including SPT, CPT, APT, and foreign NPMs and answered the experts' questions.

In the frame of the NPM's international cooperation, the bilateral relations with UNICEF Baku Office were progressed successfully, which resulted with several joint training and seminars.

On 2 March 2015, NPG member participated in CPT conference held in Strasbourg, France with support of CoE on the occasion of the 25th anniversary of the committee. This conference was attended by NHRIs and NPMs of 47 member states, ministries of justice, penitentiary services, CPT

staff, human rights experts, ECtHR judges and by the respected law experts. International experts also discussed important issues concerning the historical background of CPT, its significance, key priorities of activities, achievements and future perspectives. Later, the event was continued with discussions around the topics on healthcare service in prisons, fight against impunity, juvenile justice, detention in single cell and towards to new CPT standards in psychiatry.

Between 17-19 June, 2015 it was held IOI training for NPMs titled “Implementing a preventive mandate” in Riga, Latvia organized in cooperation with APT and Latvian Ombudsman Office. This training, where Azerbaijani Ombudsman was represented by the head of the NPM group, was resulted with substantive focus on the national preventive mechanisms under the OPCAT.

In the frame of the 56th session of the UN Committee against Torture held from 9 November to 9 December, 2015, on 10th November, it was reviewed the complementary report of the Azerbaijan Ombudsman as an NPM, concerning its implementing preventive function under the CAT, as well as the relevant information received by civil social organizations, and the Fourth Periodic State Report, which was heard on the 11th and 12th November.<sup>65</sup>

At these hearings during the 56th CAT session, the Ombudsman was represented by the Head of the Department on Prevention against Torture and of NPG, Mr. Rashid Rumzada and the other staff member of the Ombudsman Office, Ms. Sevinj Shener. During those hearings, firstly it was reviewed the relevant complementary report of the Azerbaijani NHRI.<sup>66</sup> At this meeting, the Ombudsman’s staff member gave information about the activity of the Azerbaijan NPM, its monitoring in places, which the persons are not allowed to leave at will, including penitentiary institutions, TDPs, investigation isolators, social-care institutions, such as boarding houses for older persons and PWDs, psychiatric clinics, normative and legal reforms taken at the country level, participation of the Commissioner in this process, proposals and multilateral cooperation.

Furthermore, it was stressed that the work of the Azerbaijan NPM has been developed. The meeting was concluded with responses to the questions of the Committee members concerning the complementary report. The hearing of the complementary report submitted to the relevant committee by the Ombudsman was continued in the form of interactive dialogue.

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<sup>65</sup> See the link <http://www.azerbaijan-news.az/index.php?mod=3&id=90604>

<sup>66</sup> See the link:

<http://www.ombudsman.gov.az/view.php?lang=az&menu=33&id=1972>

In conclusion, hard copies and CDs of Azerbaijani Ombudsman's NPM Reports, its Specialized Child Rights Report and NAP on Raising Effectiveness of the protection of Rights and Freedoms in Azerbaijan and other relevant documents were presented to the Committee Secretariat.

## CHAPTER 6

### Suggestions and Recommendations

In conclusion, within a past year, analysis of the activity of the Ombudsman in a capacity of NPM, gives the reason to stress that it was effective. This can be justified by the fundamental legal reforms taken and NPM activity, including monitoring, preventive visits and legal advocacy.

The development of legal culture in the society stipulates not only ensuring the right of prohibition of torture, any other cruel, degrading treatment or punishment of a person, but also development of the rights entitled to him. As a consequence of the recommendations and suggestions made last year, the attitudes of the law-enforcement bodies, court executors, state authorities and high-ranking officials to the understanding and ensuring of human rights as well as their legal thinking has been significantly changed; and measures towards developing the management system.<sup>67</sup>

The Commissioner builds her activity in comply with Paris Principles as mentioned below:

- promotes compliance of the national laws and experience to international human rights documents by which the State is bound as well as their implementation;

- ensures acceding to international legal documents, application of those international norms into practice and taking relevant measures by the State;

- assists to preparation reports to UN agencies, regional institutions concerning measures taken as specified in international treaties by the State being bound upon, gives her opinion to these reports as an independent mechanism, and submits her complementary report to the mentioned international institutions;

During 2015, within the above stated directions have been carried out by accompany of NPM preventive monitoring and legal awareness.

Preventive measures contributed to legal and infrastructural reforms, ensuring of the rights of detainees as well as to identification of the needs and impediments.

Noteworthy, most than half percent of Ombudsman's suggestions and recommendations shown in her previous reports were taken into consideration. This Report also reflects those proposals that have not been considered and are still waiting their implementation, along with the new proposals appeared in the process of its activity.

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<sup>67</sup> See the link <http://www.meclis.gov.az/?/az/report/77>



Thus, the Commissioner proposes the followings on the basis of the analysis of her activity as an NPM throughout 2015 and for effective protection of the rights of detainees:

1. strengthen the control over conducting the criminal case investigations of juveniles by highly qualified prosecutors, senior prosecutors, in particular;

2. ensure that regional features are considered during the investigations of the cases dealing with juveniles;

3. ensure that the alternative restraint measures are given priority to punishments in relation to the accused persons, especially juveniles, pregnant women and women with minor dependants;

4. adopt the relevant norms regulating the wearing of civil uniforms by detention facility guards in order to influence on the process of correction of juveniles kept in correction facilities of the Penitentiary Service and foster demonstration of good behaviors in the society;

5. ensure that the information or videos of the arrested or detained persons are not released in mass media without a court verdict which entered into force;

6. approve the temporary regulations on “Detention places for the administratively detained persons” certified by the relevant executive power offices, temporary IDR on “In detention places for the administratively detained persons”, “IDR of Prisons”, and the draft law on IDR of Centers for Irregular Migrants by the Cabinet of Ministers;

7. comply the Article 17 and 21 of the Annex No. 4 to the Regulations of Garrison and Guard Services of the Armed Forces to international norms.<sup>68</sup>

### ***Recommendations to the Ministry of Internal Affairs***

1. supply the child police inspectors with technical means;

2. strengthen the control over transferring the persons subjected to restrain measures and detained in TDPs to investigation isolators within 24 hours as specified by the law;

3. improve the process of keeping records in TDPs about release out and returning to cell the detainees;

4. conduct legal awareness among the police about the Law of the Republic of Azerbaijan on the rights and freedoms of individuals kept in detention facilities;

5. improve the provision of the persons detained in TDPs with material and hygienic tools at public expense as prescribed by the Law;

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<sup>68</sup> See for more information pp. 56-57 of this Report

***Recommendations to the Ministry of Justice:***

1. take measures for the elimination of over crowdedness in prisons and investigation isolators;
2. accelerate the construction of female prison in Zabrat district of Baku, correctional facility and of prison being constructed in Umbaki district of Baku;
3. accelerate the construction works in penitentiary complexes in Ganja and Lankaran cities;
4. renovate the medical-sanitary department in prison No. 5 in comply with international standards;
5. construct the new building for the Medical Institution due to the old buildings, some of which are out of unfit for use;
6. ensure that administrative and special restraint measures are applied only when they are deemed necessary and strengthen the control over well-documenting the relevant records and the process of taking explanations from the prisoner;
7. develop the infrastructure taking into account the over crowdedness and bad condition in the specialized trains intended for the transfer of the detainees from the penitentiary institutions to TDPs or vice-versa;
8. involve the society into the reintegration process of the inmates based on the international experience;
9. intensify measures for the correction of prisoners by using labor, religion and educational methods;
10. create new production areas in order to involve the prisoners into social work taking into account their labor force through involving them into healthy labor;
11. increase the quality of legal aid service to the detainees by the Ministry of Justice, and the number of lawyers and offices of legal counsel;
12. continue the work toward the compliance of the waiting rooms for persons waiting trial;

***Recommendations to the Ministry of Health:***

1. prepare new rules regulating the process of placement of persons in the psychiatric hospitals in comply with international experience;
2. take measures for transferring of the persons who were kept in Republic Psychiatric Hospital No. 1 by the Ministry of Health for a long-term treatment, not because they need a treatment, but they lost the social

ties, to social care institutions under the Ministry of Labor and Social Protection of Population;

3. ensure that Ministry of Health takes necessary measures for improvement of the material condition of regional psychiatric institutions;

4. ensure that the Ministry of Health takes necessary measures for strengthening public scrutiny in psychiatric institutions

***Recommendations to the Ministry of Education:***

1. prepare the new regulations of the Guba Special Vocational Training School and improve the conditions in compliance with international standards and interests of the children;

2. conduct repair works in several boarding schools and prove them with necessary equipment;

3. ensure that the educators working in boarding schools are involved into capacity building trainings to increase their professionalism and to this end, develop the relevant academic curriculum in secondary schools;

4. take measures for increasing wages of the staff members of those facilities;

***Recommendations to the Ministry of Labor and Social Protection of Population:***

1. improve the work of the relevant Ministry driven from the provisions of the Law of the Republic of Azerbaijan on Social Adaptation of Persons released from the penitentiary institutions;

2. develop new mechanisms of solution of employment problems of persons released from penitentiary institutions;

3. improve the work of determining the degree of the disability for prisoners and efficient mechanisms based on national and international standards;

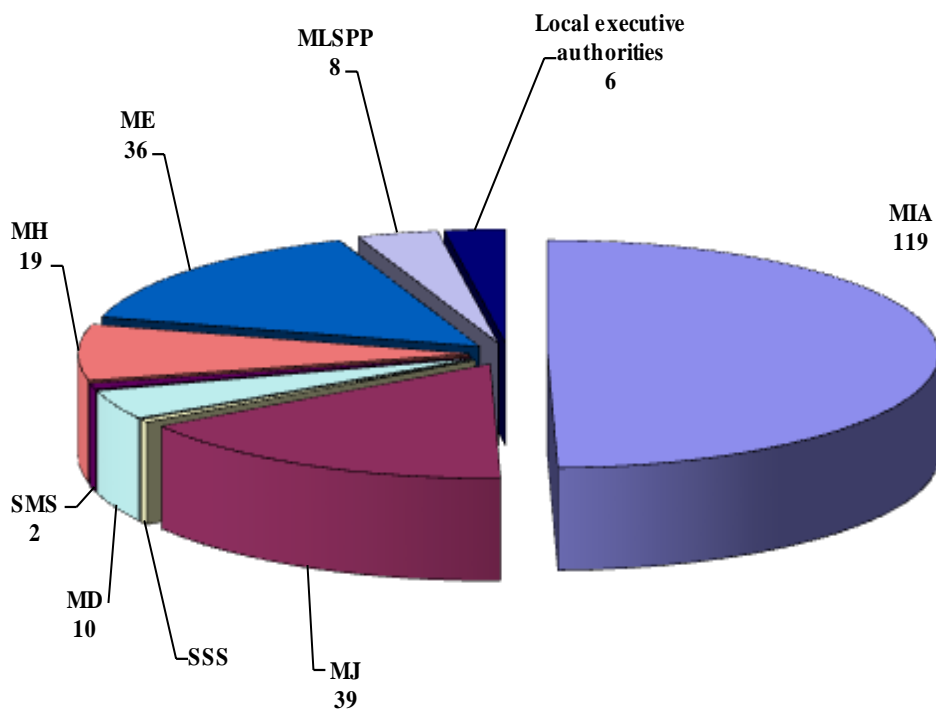
4. improve the material condition of the facility for the mentally ill persons, PWDs and older persons under the Ministry and continue the process of harmonization with international standards;

5. increase the quality of healthcare services for persons treated in the facility under the relevant Ministry taking into account the low quality of healthcare service and the lack of medicines;

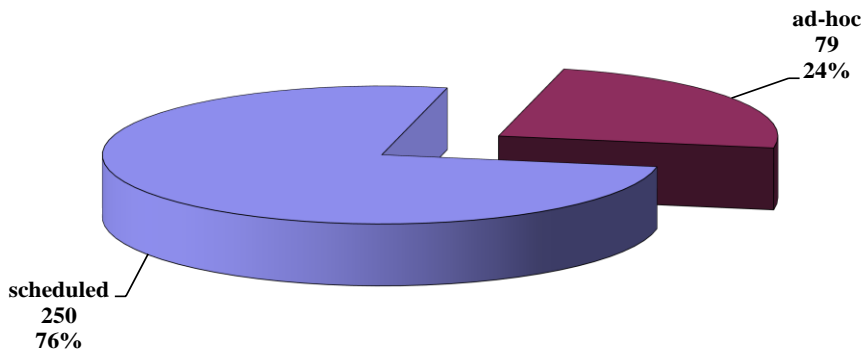
6. harmonize the conditions of the older persons and the national legislation with the UN Principles of Older persons as well as other international standards.

STATISTICAL DATA

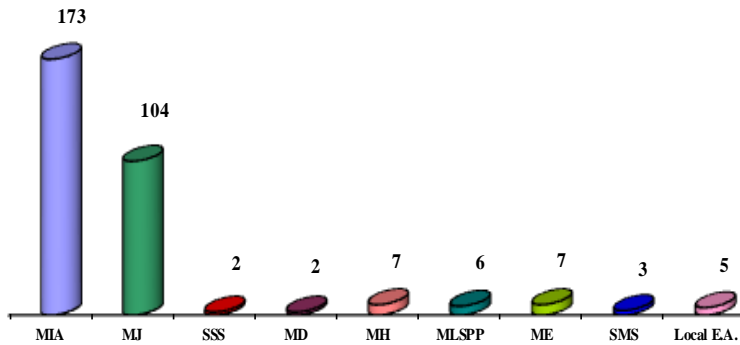
Diagram 1. Number of the facilities visited by the NPM



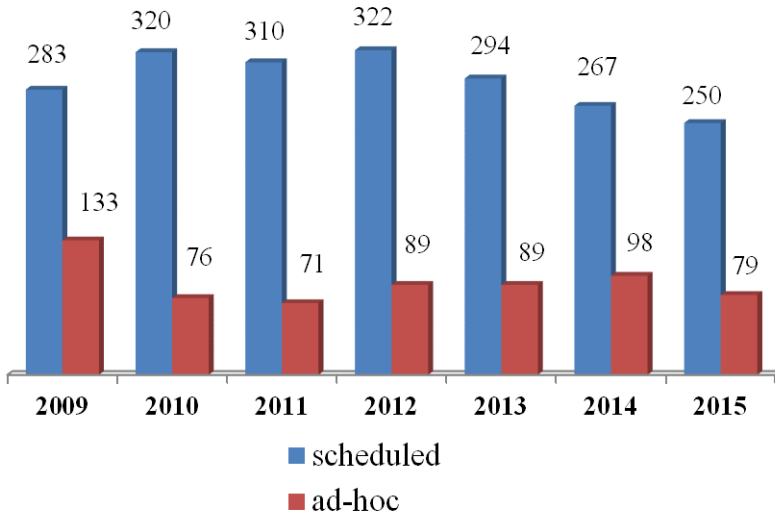
*Diagram 2. NPM visits conducted in 2015*



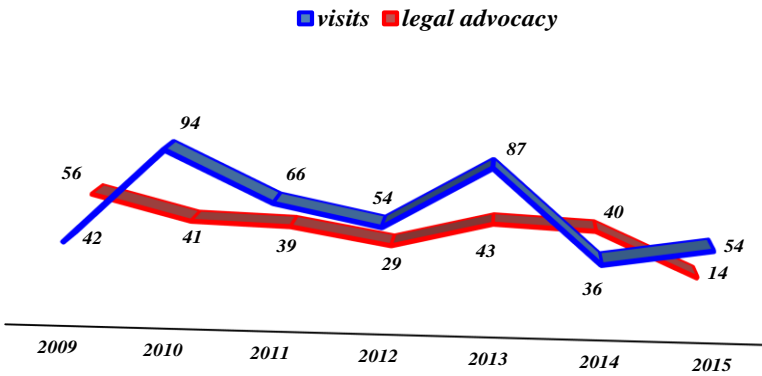
*Diagram 3. NPM visits conducted in 2015  
(by facilities)*



*Diagram 4. NPM visits  
(by years)*



*Diagram 5. NPM press releases  
(by years)*



**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 fulfillment 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 fulfill 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 fulfill 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).