



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

REPORT

ON THE ACTIVITY OF THE NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE

(2017)

Baku 2018

This report describes the relevant work of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan functioning in a capacity of the 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 the recommendations and proposals put forward in 2016.

The recommendations and proposals have been made by the CAT, SPT and CPT, also those have been made to periodic reports of the Republic of Azerbaijan by the Working Group on Universal Periodic Review of the UN Human Rights Council during the process of carrying out the NPM functions by the Commissioner were considered generally in this report.

The information, statistical data developed basing on the analysis as a result of visits, as well as the Optional Protocol to the UN Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are attached to the report.

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FOREWORD

As an integral part of our work in the field of protection, promotion and protection of human rights our relations with local and international expert's relevant government agencies, civil society institutions, mass media, international organizations, national human rights institutions of foreign countries, ensured improvement of the activity of the Commissioner as an NPM, building of efficient and constructive cooperation, conduction of fruitful discussions, training and exchange of experience.

As it is known, the Republic of Azerbaijan ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment on December 2, 2008, by the Decree No.112 of the country President dated January 13, 2009, the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was designated as an institution fulfilling the functions of the NPM envisaged by the OPCAT.

We do not restrict any initiatives and contributions for improving existing activity from the standpoint of practical approaches in the frames of our activity as an NPM against torture or other cruel, inhuman or degrading treatment or punishment, putting forward proposals and recommendations to the legislation, as well as from the organizational point of view.

Fulfilling of the tasks from these new functions which are logical continuation of legal reforms conducted within the framework of the legal statehood building in the country became one of the directions of the Commissioner's activity

The present Report covers the activity of the Azerbaijani NPM for 2017 and envisages the conducted measures, preventive visits and their results, submitted proposals and recommendations, their implementation status, also legal awareness and other activity realized by the NPM.

I hope that the issues raised, recommendations and proposals given in this report will contribute to the improvement of various directions in the relevant activity in compliance with the Optional Protocol's demands.

We thank you in advance for your proposals regarding the activity of the NPM .

Professor Elmira SULEYMANOVA
Commissioner for Human Rights
(Ombudsman) of the Republic of Azerbaijan

DEFINITIONS AND ABBREVIATIONS USED IN THE TEXT

- AIDS** –Acquired Immunodeficiency Syndrome
- CAT** –UN Committee against Torture
- CC** –Criminal Code of the Republic of Azerbaijan
- CEP** –Code on Execution of Punishments of the Republic of Azerbaijan
- Constitutional Law** – the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan
- Commissioner** –Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan
- Convention** –Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- CDPO** – city district polis office
- CPD** – city police department
- CPO** – city police office
- CPT** – Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
- Department** –Department for the Prevention of Torture of the Office of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan
- DPD** – district police department
- DPO** – district police office
- Deprivation of liberty** – any form of detention or imprisonment or the placement of a person in a public or private custodial setting, which that person is not permitted to leave at will by order of any judicial, administrative or other authority
- Detainee** –person deprived of his/her liberty
- DS** - Detention Station for Administratively Arrested persons
- HIV** – Human Immunodeficiency Virus
- IDR** – Internal Disciplinary Rules of Penitentiary Institutions
- II** – Investigation Isolator
- 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
- MIA** –Ministry of Internal Affairs of the Republic of Azerbaijan
- MJ** –Ministry of Justice of the Republic of Azerbaijan
- MI** –Medical Institution of the Penitentiary Service
- MLSPP** –Ministry of Labor and Social Protection of Population of the Republic of Azerbaijan
- MPO** –Military Prosecutor's Office of the Republic of Azerbaijan

MSEC - Medical Social Expert Commission of the Ministry of Labor and Social Protection of Population

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

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

SMS –State Migration Service of the Republic of Azerbaijan

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

SSS –State Security Service of the Republic of Azerbaijan

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

TDP – Temporary Detention Place

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

UN – United Nations

CHAPTER 1.

MANDATE OF THE NATIONAL PREVENTIVE MECHANISM BASED ON THE OPCAT

1.1. Requirements of the OPCAT

In 2017, the Commissioner continued the relevant work as an institution, designated to function as a NPM provided by the OPCAT.

The main objective of the OPCAT¹ is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty², in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. The OPCAT emphasizes taking preventive measures from the standpoint of importance of the constructive dialogue and giving reaction to regulating relations. The innovativeness of the OPCAT also appears in envisaging no new rights or standards or the restoration of violated rights but the prevention of the violation of the existing standard – the right to not be subjected to torture.

The establishment of an independent and regular visits system as of the most advantageous way for prevention of torture with the aim to monitor the treatment of people detained in all places of deprivation of liberty and detention conditions is the principle idea mentioned in this document. In accordance with the OPCAT, international and national bodies with a torture prevention mandate – the Subcommittee and NPM's – are set up. The Subcommittee established at the international level is a new generation treaty body of the UN.

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

- To regularly examine the treatment of the persons deprived of their liberty in places of detention;

¹The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was adopted by the UN General Assembly Resolution No. 57/199 dated December 18, 2002, and entered into force after being ratified by 20 States on June 22, 2006.

² According to the paragraph 2 of the Article 4 of the OPCAT 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 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.³

In order to enable the national preventive mechanisms to efficiently fulfill their mandate, the State Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.⁴

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, treatment of those persons as well as their conditions of detention, the number of places 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.⁵

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 2008.⁶The OPCAT entered into force in the Republic of Azerbaijan by the publication of the aforementioned law on 15 January 2009. On the same date the President of the Republic of Azerbaijan issued a Decree designating the Commissioner as the institution to perform the functions of the NPM according to the OPCAT⁷.

³OPCAT, Article 19;

⁴OPCAT, Article 18(1);

⁵OPCAT, Article 20;

⁶The 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);

⁷ 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);

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 Law⁸ the Commissioner's powers and 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 the duties as the NPM, has 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 legality of detention, as well as relating to treatment of them or detention conditions; draw up acts, and minutes to document the flow and results of undertaken actions.⁹ 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.¹⁰

Over the previous period, the legislative acts were improved, 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 efficient operation.¹¹

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

⁹ The Constitutional Law, Article 12.2.1; 18-1.2.1

¹⁰ The Constitutional Law, Article 12.2.1

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

Under Article 18-1.1 of the Constitutional Law, the members of NPG were formed for the period of 3 years for the first time on 26.12.2013 and due to the expiry of the term, for the second time on 26.12.2016, basing on transparent procedures.

The recommendations and proposals made to the periodic reports of the Azerbaijani Government under the review process by the UN Human Rights Council Universal Periodic Review (UPR) Working Group, as well as by CAT, SPT, CPT were considered to ensure efficient activity of the Ombudsman as an NPM as specified by the OPCAT.¹²

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* visits without prior notification to the places which detained persons cannot leave on their own will;

- **Legal analysis** – the theoretical and practical analysis of the performed activities, as well as information collected during the course of these activities, relevant proposals and recommendations received, and effective or draft, and compilation of conclusions and preparation of corresponding proposals;

- **Legal awareness** – 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 places which detained persons cannot leave on their own will, 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 Azerbaijani NPM's activity has been interlinked with the Commissioner's mandate to

(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);

¹²The UN Human Rights Council, Report of the Working Group on the Universal Periodic Review, 5 July 2013, A/HRC/24/13 (para.103.31).

receive complaints. 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, initiatives, forwarded proposals and recommendations are reflected in the special reports on the activity as an NPM. The reports of the previous years were translated and published in both the Azerbaijani and English languages. Up to two hundred proposals and recommendations aimed at improving the legislation, as well as institutional issues have been enumerated in the reports submitted so far and more than half of them were forwarded for implementation.

The activity of the Commissioner as an NPM is not limited only with condemning torture and cases causing to ill – treatment, but it also gives relevant recommendations regarding measures to be undertaken to corresponding institutions for strengthening prevention of such cases and keeps under the attention these issues and preventive approaches in collaboration with governmental bodies, civil society institutions, the Public Committee and other bodies.

It has to be mentioned that, the activity of the Azerbaijani NPM is coordinated mandate of the Commissioner's examination of complaints, information gathered during the investigation of received applications, including, the amount of complaints in organizations and enterprises is used during planning and implementation of preventive visits.

CHAPTER 2.

ACTIVITY OF THE NPM AND PREVENTIVE VISITS

2.1. The Organization of Preventive Visits

Defining its priorities on performing duties the Azerbaijani NPM also considers the OPCAT objectives¹³.

Thus, pursuant to the paragraph (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 the 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 institution included in the visit, as well as on revisiting is made with consideration of such factors as the specifications of the given institution, prior cases reported on the detention conditions and treatment in the mentioned institution in previous years, its location, as well as the information submitted to the NPG as a result of an analysis of the complaints addressed to the Commissioner.

¹³OPCAT, Article 20 ;

The time allocated for a visit varies depending on the size and specifications of the institution, 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 at 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 organization 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 institution, 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 etc.), checking the cases revealed during the previous visits, the state of implementation of forwarded proposals and recommendations, defining the issues to pay special attention to and other activities.

During the establishing 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, the process of measures to be taken and their results, surveys etc. are prepared.

Conduction of the visit encompasses a number of stages:

At first, preliminary talk is held with the administration of the institution. 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 institution.

After the preliminary talk with the administration, the buildings of the institution are visited. During this the material condition of the institution, including size, capacity and the condition of building, cells and rooms, actual placement, light, ventilation, furniture supply, personal hygiene and sanitary conditions, and food is assessed, rendering of medical treatment, existing documentation is investigated.

After that, the documents are reviewed and detainees are collectively or individually and confidentially interviewed. Conduction of such collective talks mainly depends on the aim of the visit. The NPG members on spot decide the form of conduction of interview depending on the circumstances, or make changes to the preliminary agreement.

Talks with the staff of the institution are also one of the necessary issues of a visit. During the conduction of the visit, in order to assess the treatment by persons responsible for the detainees, the NPG members organize interviews with the personnel. In some cases special surveys are used for relevant staff together with the mentioned talks.

At the end of the visit a final talk is held with the administration of the institution and information is provided on the findings of the NPG. The matters could be solved on spot are brought to the attention of the administration and relevant recommendations are given. Simultaneously, it is informed that the administration of the relevant authority will be urged regarding the results.

Post – visit activities. From the point of view of the Azerbaijani NPM, the post-visit activities are much more important than conduction of the visits. The objective of the NPM is not only conducting visits to relevant places, organization of the measures aimed at the improvement of the treatment of and conditions for the people detained in different institutions is also a part of this process.

That is the reason that after undertaking a visit a report on the outcomes is prepared and recommendations for the improvement of the treatment and conditions are prepared and submitted to the relevant bodies.

In general, if it is considered necessary by the NPG a repeated visit is scheduled and conducted to the institution shortly after the previous one with the aim to investigate on the spot the status of implementation of the given recommendations.

In 2017, the NPG members conducted 341 visits to the places which detained persons cannot leave on their own will, out of which 251 were scheduled and 90 were *ad-hoc* visits.

Thus, accordingly, 149 visits were carried out to the institutions of the MIA, 81 to the institutions of the MJ, 6 to the institutions of the SSS, 4 to the institutions of the SMS, 37 to the institutions of the MH, 11 to the institutions of the MLSPP, 30 to the institutions of the ME, and 23 to the institutions of local executive authorities.

In general, legal awareness talks were held individually with more than 2500 detainees in places which persons cannot leave on their own will, as well as with up to 500 staff members of those institutions.

Within the framework of the NPM activity the preventive visits to the places which detained persons cannot leave on their own will are conducted regularly, in *scheduled* or *ad-hoc* manners and in all cases without any prior notification.

As in previous years, relevant recommendations and proposals were submitted to the administrations of the institutions concerned and to the relevant ministries to eliminate the shortcomings revealed during visits conducted in the reviewed year and to improve general detention conditions. Accordingly, the Commissioner who realizes the functions of the NPM was informed about the results of measures carried out by those bodies according to the each submitted recommendation.

The numerous detainees were received, private and confidential meetings were held with numerous urged persons, the applications are received and investigated on the spot during the visits paid each year in *scheduled* and *ad-hoc* manners to the places which detained persons cannot leave on their own will. Considering the appeals received by the NPG, relevant measures have been carried out, legal advice was given, and the reception of the appeals for execution was ensured.

Numerous persons were received by the Commissioner and investigations were conducted over the appeals addressed to her by detainees, their family members and lawyers, human rights defenders, also received through hot-line services, as well as by NGOs, the ICRC.

The relevant investigations were conducted with regard the received applications, the Prosecutor General, Minister of Internal Affairs and the Minister of Justice and other related state bodies were urged to for investigation when necessary. In all cases the applied persons were replied

on-time officially in written with regard the investigation. The relevant announcements of the Ombudsman's Hotline Service numbers were monitored and kept in places where it was not.

2.2.1. Institutions of the Ministry of Internal Affairs

As is known, persons who are detained at the first hours of detention are becoming more unaware and there is more risk that the competent authorities and authorized persons responsible for their detention will abuse their authority. That is why, the requirements of national legislation, as well as the position of international organizations is consist of the authorities of the police on detainees should be restricted by appropriate guarantees and special attention must be paid to the protection of the rights of detainees in such places.

In 2017, 149 scheduled and *ad-hoc* visits were conducted to the temporary detention places and police units (PU) within the framework of the activity of the Ombudsman as an NPM. During these visits private conversations were held with 942 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.

Preventive visits and the final recommendations are based on national legislation as well as CAT, SPT, CPT reports and international standards.

In 2017, during the visits it was observed that works were carried out taking into account our recommendations to bring the conditions of detention to the standards in the facilities of the Ministry of Internal Affairs.

The visits without prior notification were held by the members of the NPG of the Ombudsman in ***PU's No.26, 27, 28 and No.29 of Yasamal DPO***. The purpose of the visit upon the demands of the OPCAT and the Constitutional Law was investigation of detention conditions and treatment, ensuring the rights of detainees, as well as the revise of conduction the relevant documentation.

During the visit, the persons detained in the institution were received individually by the NPG members, their appeals were replied to, they were explained their rights and the competences of the Ombudsman, the documents confirming the legality of detention of those persons, as well as treatment of them and detention conditions were inspected. The cells of the Detention Station were visited, documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned as well.

During the visit the NPG members received individually the persons detained in the TDP, their rights as well as the competences of the

Ombudsman were explained to them, the legal advice was given. The detainees did not express dissatisfaction on the detention conditions and treatment by the staff of the facility.

The result of the visit was discussed with the administration of the abovementioned police units, the legal awareness work targeted at the staff members of the institution was carried out.

The visits without prior notification were held in **PU's No.26, 27, 28 and No.29 of Yasamal DPO**, the legal awareness work was carried out with the staff members. During the investigation, deficiencies were identified in the documentation process and appropriate recommendations were given to the administration on elimination of such cases.

As it is envisaged in the CPT reports, that the fundamental safeguards granted to persons in police custody would be reinforced (and the work of police officers quite possibly facilitated) if a single and comprehensive custody record were to exist for each person detained, on which would be recorded all aspects of his custody and action taken regarding them (when deprived of liberty and reasons for that measure; when told of rights; signs of injury, mental illness, etc; when next of kin/consulate and lawyer contacted and when visited by them; when offered food; when interrogated; when transferred or released, etc.).¹⁴

A visit without prior notification was held in **Khazar DPO TDP¹⁵**.

The purpose of the visit was investigation of ensuring the rights of persons detained in the unit, treatment matters, as well as conduction of relevant documentation.

During the visit the individual conversations were held by the NPG members with the persons detained in the TDP. The detained persons I.M, R.Q and Y.R claimed that they had been subjected to pressure during the initial detention. They were asked to assist in the objective examination of their appeals. Due to investigation of applications the case was raised before the investigative body, each request was answered in a timely manner.

The detained persons did not express dissatisfaction on the conditions in the institution and treatment by the **Khazar DPO TDP staff**. They were also explained their rights, the competences of the Ombudsman and were given legal advice.

At the end of the visit the NPG members gave relevant recommendations according to national and international legislation and Internal Disciplinary Rules of TDP's.

A visit without prior notification was held in **Surakhani DPO TDP and the same DPO's PU's No.31**. The visit was conducted upon the demands of

¹⁴CPT, GR 2, paragraph 40

¹⁵<http://avtosfer.az/news/35209>

the OPCAT and the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman).

Within the framework of the visit held in **Surakhani DPO TDP** the documents confirming the legality of custody of the detention persons, as well as related to treatment of those persons and their detention conditions were investigated, all cells of the TDP were visited, documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; the needs were learned, the persons detained in the institution were received individually.

The detained persons did not expressed dissatisfaction on the conditions in the institution and treatment by the staff. Their applications were replied to. They were also explained their rights, the competences of the Ombudsman and were given legal advice.

Within the framework of the visit, the TDP administration was given relevant recommendations regarding observation of the mentioned issues, as well as the legal awareness work targeted at staff members was conducted basing on the national and international legislation.

During the visit to **PU No. 31 of Surakhani DPO** there was not any detainee in the police station. During this visit service rooms of employees were monitored and it was given recommendations and the legal awareness conversations were held with the staff members on efficient ensuring the rights of citizens when inviting to the unit, also as suspected persons.

The members of the NPG of the Ombudsman held a visit without prior notification in **Sumgait City Police Office TPD**. The purpose of the visit was the investigation of ensuring the detainees' rights in the unit, treatment, as well as conduction of relevant documentation. Within the framework of the visit the documents confirming the legality of custody of detainees, also relating to the treatment and detention conditions were investigated, all cells of the TDP were visited. During the visits individually conversations were held with the detainees in the TDP by the NPG members. One of the detainees R.S said that during the time of detention that he was subjected to physical pressure by the staff members of **Sumgait City Police Office TPD** and asked for the objective investigation of his case.

As mentioned in the Istanbul Protocol, States must ensure that complaints and reports of torture or ill-treatment are promptly and effectively investigated. Even in the absence of an express complaint, an investigation should be undertaken if there are other indications that torture or ill-treatment might have occurred¹⁶.

¹⁶Istanbul Potocol.3;84

The Ombudsman urged the Prosecutor General respectively regarding the solution of the abovementioned cases and received applications. The detained persons did not express dissatisfaction on the conditions in the institution and treatment by the staff.

At the end of the visit the NPG members gave relevant recommendations to the Head of the institution on improvement of the detention conditions and treatment issues.

The visit to ***Sumgait City Police Office PU No. 3 and 4*** have been aimed to investigate the issue of the rights of detainees. During the visit ***Sumgait City Police Office PU No. 3*** there was not any detainee in the police station. During the visit service rooms were monitored, and the unit administration was given recommendations on elimination of such cases; the legal awareness conversations were held with the staff members on efficient ensuring the rights of citizens when inviting to the unit, also as suspected persons.

During the visit ***Sumgait City Police Office PU No. 4*** the individual conversations were held by the NPG members with the one of the detainees A.I. The detained person mentioned that he had just been brought to police office and he did not express dissatisfaction on the conditions in the institution and treatment by the staff.

Within the framework of the activity of the Ombudsman as an NPM the visit was conducted to the TDP of ***Oghuz DPD***. The aim of the visit to TDP of ***Oghuz DPD*** was to confirm the documents the legality of custody of the detainees and their detention conditions, as well as treatment conditions were investigated. The detainees received individually and they did not express dissatisfaction with the detention conditions and treatment.

During the visit to the TDP of ***Oghuz DPD*** it was revealed that relevant records had been made incorrectly, insufficiencies were allowed. From this standpoint the head of the institution was given recommendations by the NPG members regarding the improvement of the detention conditions and treatment issues, the discussions were conducted upon the mentioned matters.

As it is envisaged in the CPT reports, this is important that the fundamental safeguards granted to persons in police custody would be reinforced (and the work of police officers quite possibly facilitated) if a single and comprehensive custody record were to exist for each person detained, on which would be recorded all aspects of his custody and action taken regarding them (when deprived of liberty and reasons for that measure; when told of rights; signs of injury, mental illness, etc; when next of kin/consulate and lawyer contacted and when visited by them; when offered food; when interrogated; when transferred or released, etc.). For

various matters (for example, items in the person's possession, the fact of being told of one's rights and of invoking or waiving them), the signature of the detainee should be obtained and, if necessary, the absence of a signature explained. Further, the detainee's lawyer should have access to such a custody record¹⁷.

Within the frames of the activity of the Ombudsman as an NPM the visit was conducted to the **TDP of Yevlakh DPD**.¹⁸ The investigation, identification, meeting, doctor's and worship rooms, kitchen, sanitary units were visited, reconstruction of heating, ventilation and water systems were observed.

Within the framework of the visit, the NPG members held individual reception of detainees in the TPD, their applications were replied to, they were explained their rights and the Ombudsman's competences; legal advice was given as well. The detainees did not express dissatisfaction on the detention conditions and treatment by the staff of the facility.

During the visit to the **TDP of Yevlakh DPD**, in the medical room, the storage of expired medicinal products in the medical cabinet has been defined and eliminated. At the end of the visit the Head of the institution was given relevant recommendations by the NPG members on improving the detention conditions and treatment issues, to eliminate the abovementioned issues and shortcomings in the documentation and the discussions over the solution of the mentioned cases were conducted.

During the visit to the **TDP of Lankaran DPD** the investigation, identification, meeting, doctor's and worship rooms, kitchen were visited, the legality of relevant documents was inspected, the conversations with the detainees was conducted. At the end of the visit, basing on the national and international standards, the legal awareness conversations were conducted with the DPO and TDP administrations regarding treatment of detainees, remedies, focusing on the matter of ensuring the accessibility of lawyers, as well as relevant recommendations were put forward on solution of the abovementioned cases, elimination of insufficiencies in the documentation and its improvement.

During the scheduled visit to the temporary detention place of **Tovuz DPO**,¹ for detention station for the administratively arrested persons in total 7 cells of the TDP, investigation room, doctor's room, kitchen, walking area were visited. Warm and cold water supply, equipped medical room with medicines was observed at the TDP.

¹⁷CPT, GR 2, paragraph 40

In order to check the conduction of documentation, “The journals of registration of persons brought to the police bodies,” in PU were investigated. During that, it was observed that in certain parts of the journal there were roughs and the unit administration was given recommendations on elimination of such cases; the legal awareness conversations were held with the staff members on efficient ensuring the rights of citizens when inviting to the unit, also as suspected persons.

Within the framework of the activity of the Ombudsman as an NPM the scheduled visit was held in the temporary detention place of ***Aghstafa District Police Department***. The aim of the visit was investigation of the treatment of the detainees and their detention conditions. The TDP cells, the walking area were visited, the documentation on nutrition and medical aid was inspected. *It was also revealed that the building of the TDP was old; there was a need in its reconstruction in compliance with the standards, improving the conditions in cells.* Within the framework of the visit the legal awareness conversations were conducted with the staff members of the police department basing on the demands of the OPCAT.

During the visit to the temporary detention place of ***Gazakh District Police Department***, all cells of the ***DPT*** were checked and detainees were confidently received. During the visits the condition of documentation was also revised and it was revealed that relevant notes were made incorrectly and insufficiencies were observed. From this standpoint the head of the institution was given recommendations by the Ombudsman regarding improvement of the detention conditions and treatment issues, the discussions were conducted upon the mentioned matters.

The visit without prior notification was held in the temporary detention place of ***Khachmaz District Police Department***. The aim of the visit conducted upon the demands of the OPCAT and the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was investigation of the treatment of detainees and their detention conditions.

During the visit held with participation of the Ombudsman as an NPM the relevant documents, as well as the matters of treatment of detainees were investigated. The TDP cells, the walking area were visited, the documentation on nutrition and medical aid was inspected. During the visit to the temporary detention place of ***Khachmaz District Police Department*** in the medical room, the storage of expired medicinal products in the medical cabinet has been identified and eliminated.

As can be seen, there are some shortcomings in the practice of documentation in the temporary detention places and police departments. *The CPT considers that the fundamental safeguards granted to persons in*

*police custody would be reinforced (and the work of police officers quite possibly facilitated) if a single and comprehensive custody record were to exist for each person detained, on which would be recorded all aspects of his custody and action taken regarding them (when deprived of liberty and reasons for that measure; when told of rights; signs of injury, mental illness, etc; when next of kin/consulate and lawyer contacted and when visited by them; when offered food; when interrogated; when transferred or released, etc.)*¹⁹.

It has to be mentioned that, it is important to provide qualified healthcare products in the context of the health law of the detainees in the temporary detention places. *Along with the national legislation of the Republic of Azerbaijan, the European Code on Police Ethics is also defines that, Persons deprived of their liberty by the police shall have the right to have the deprivation of their liberty notified to a third party of their choice, to have access to legal assistance and to have a medical examination by a doctor, whenever possible, of their choice*²⁰.

In 2017, the Ombudsman's 24-hour Hotline Service related to torture received calls on the activities of police agencies, access to legal aid, probability of abuse and unreasonable detention. The Ombudsman has taken immediate steps to ensure the rights of citizens within her competences and applications based on preventive approaches have been provided by the Prosecutor's General Office and the Ministry of Internal Affairs.

The raised appeals were promptly responded, and as a result, a group of internal affairs officers were brought to disciplinary responsibility for shortcomings in their service activities.

2.2.2. The 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 the National Preventive Mechanism. In general, in 2017, 81 scheduled and *ad-hoc* visits were conducted in the investigation isolators and penitentiary institutions under the Ministry of Justice of the Republic of Azerbaijan. The complete environment was created for conduction of visits to these institutions by the Commissioner within the framework of her activity as an NPM.

During the visits, private meetings were held with 839 inmates and their detention condition, access to health care, upholding of honor and dignity, the prevention of torture and ill-treatment were the issues of focus of

¹⁹CPT, GR 2, paragraph 40

²⁰The European Code of Police Ethics, (2001) c. 57.

attention. The prisoners' rights to social security, to health, to appeal, to receive legal aid and others in the places of arrest and penitentiary institutions were also subjects of the investigation.

The proposals and recommendations put forward by the NPG members within the framework of the activity of the Commissioner as an NPM in compliance with the OPCAT and the Constitutional Law, are linked to the national legislation and based on the reports of the CAT, SPT, CPT, European Penitentiary Rules, Istanbul Protocol and other international standards. The information on supposed subjection to ill-treatment or violence and received on this regard were investigated on the spot, the Office of the Prosecutor General and Ministry of Justice was urged immediately upon the gathered materials and it was recommended the efficient investigation taking the raised matter under the control.

In 2017, the NPG members conducted several scheduled and *ad-hoc* visits without prior notification to ***Baku Investigation Isolator***²¹. The visit conducted within the framework of the activity of the Ombudsman as an NPM upon the demands of the OPCAT and the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan.

The purpose of these visits was to investigate the detention conditions and treatment, as well as investigation of applications addressed to the Commissioner and the conduction of relevant documentation. Within the framework of the visit conducted with the participation of the Ombudsman by the members of the NPG, detention conditions and treatment issues were investigated, many defendants were personally accepted, their petitions and appeals were reviewed, foreign nationals have been received individually²², the status of the ensuring rights, the applications and the issues they raised have been investigated and a number of appeals have been provided on site in Baku Investigation Isolator²³.

Basing on the gathered materials the Office of the Prosecutor General or the Ministry of Justice upon related matters were urged immediately, the efficient investigation of raised issues keeping them under control was recommended and other relevant measures were carried out.

Within the framework of the visit conducted with the participation of doctor – member of the NPG, the arrested persons from different object of the institution were received, the works carried out on treatment matters, detention conditions with regard the switch to a summer regime, ventilation, nutrition, water supply, medical aid, as well as the status of implementation

²¹<https://azvision.az/news/126115/ombudsman-baki-istintaq-tecridxanasinda-olub.html>

²²<http://www.ombudsman.gov.az/az/view/news/505/ombudsmanin-milli-preventiv-qrupu-terefinden-baki-istintaq-tecridxanasina-bashchekme-heyata-kechirilmishdir>

²³<https://az.trend.az/azerbaijan/society/2796100.html>

of recommendations put forward during the previous visits were investigation on the spot.

Within the framework of the visit in accordance with the European Penitentiary Code, access to information and methods permitted by law to file complaints, understanding of rights and duties, the provision of all other issues and rights was also a matter of investigation. The complaints regarding the meetings with family members of defendants and their lawyers were also discussed and investigated on the spot.

*It has to be mentioned that, the CPT attaches particular importance to three rights for persons detained by the police: the right of the person concerned to have the fact of his detention notified to a third party of his choice (family member, friend, consulate), the right of access to a lawyer, and the right to request a medical examination by a doctor of his choice (in addition to any medical examination carried out by a doctor called by the police authorities)*²⁴.

The scheduled and *ad-hoc* visits were held by the NPG members **to Investigation Isolator No.2**. During the visits to the Investigation Isolator in Ganja city the dormitories, MSU, penal isolators, kitchen, meeting rooms and other objects of the Investigation Isolator have been visited.

During the visit overcrowding in the mentioned institution was observed. Since the building of the Investigation Isolator is old, the current repair work does not have any effect. In this regard the Commissioner urged to the MJ. In the received response it was informed that the construction of new penitentiary complex in Ganja city was going on and this shortcoming would be eliminated. There is a need to accelerate the work carried out in this direction.

*The CPT notes in its recommendations that, conditions of detention in police cells must meet certain basic requirements. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets. Persons in police custody should have access to a proper toilet facility under decent conditions, and be offered adequate means to wash themselves. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day*²⁵.

Within the framework of the visits, the administrations of the institution were given relevant recommendations on further improving of detention conditions, the medical service and documentation basing on the national

²⁴CPT,GR, paragraph.36

²⁵CPT,GR2, paragraph.47

and international norms, as well as the Internal Disciplinary Rules in Investigation Isolators.

Within the framework of the activity of the Ombudsman as an NPM the visit was held in ***Investigation Isolator No.3***. The aim of the visit was investigation of detention conditions and treatment, ensuring the rights of detainees. Within the framework of the visit conducted with the participation of doctor – member of the NPG, the detention conditions, nutrition, foods supply were inspected, for this aim the cells, canteen of this institution were visited, as well as the situation with ensuring the rights to medical aid, walking, phone conversations, legal aid and others was investigated.

The detained persons did not expressed dissatisfaction on the conditions in the institution and treatment by the staff, in order to investigate the treatment matters tête-à-tête meetings were carried out with the detainees in the visited cells, their appeals were heard, legal advice on the raised issues, the competences of the Ombudsman and legislation demands were explained to each of them. Corresponding enquiries were sent to Prosecutor General and other relevant bodies and each application was replied in written.

During the visit, the provision of the rights of detainees under the legislation was investigated, the meeting, the right to use of telephone, and medical assistance were provided on the spot²⁶.

During the tête-à-tête meetings were carried out with the detainee's legal advice on the raised issues, the competences of the Ombudsman and legislation demands were explained to each of them.

Within the framework of the Commissioner's activity as an NPM during the previous visits to the Investigation ***Isolator No.3***, it has been observed that appropriate measures have been taken to implement the recommendations given to improve the documentation and storage conditions. Due to the fact that the building was old, there were difficulties in the conditions of detention, as well as density in the enterprise.

Within the framework of the activity of the Ombudsman as an NPM the visit was held in ***Penitentiary Institution No.1***. The aim of the visit was the investigation of the treatment of detainees and their detention conditions, ensuring the prisoners' rights, as well we the conduction of the documentation.

Within the framework of the visit conducted with the participation of doctor – member of the NPG, the detention conditions, nutrition, foods supply were inspected, for this aim the cells, canteen of this institution were

²⁶<http://bastainfo.com/az/2017/03/11/ombudsmanin-%C9%99m%C9%99kdaslari-mehman-huseynovla-gorusdu/>

visited, as well as the situation with ensuring the rights to medical aid, walking, phone conversations, legal aid and others was investigated and tête-à-tête meetings were carried out with the detainee's. During the tête-à-tête meetings were carried out with the detainee's legal advice on the raised issues, the competences of the Ombudsman and legislation demands were explained to each of them.

During the visit, convicted A.C. mentioned his mental illness and expressed his dissatisfaction to medical care. His appeal was examined on the spot, his health issues raised before the *Medical-Sanitary Unit* and preventive measures were taken to ensure that such applications were available.

*International health care standards require for prisoners with mental illness that, persons who are found to be not criminally responsible, or who are later diagnosed with severe mental disabilities and/or health conditions, for whom staying in prison would mean an exacerbation of their condition, shall not be detained in prisons, and arrangements shall be made to transfer them to mental health facilities as soon as possible. If necessary, other prisoners with mental disabilities and/or health conditions can be observed and treated in specialized facilities under the supervision of qualified health-care professionals. The health-care service shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment*²⁷.

*In the CPT recommendations it was mentioned that, prisoners with mental illness should be placed in ethics for medical institutions outside of the prison system, under the public health care. On the other hand, it can be argued that, provision of psychiatric services within the penitentiary system enables the implementation of medical services in optimal security conditions and intensification of medical and social services within the system*²⁸.

At the end of the visit the discussions were carried out with the head of the institution on further improvement of detention conditions, conduction of documentation in compliance with the national and international standards, as well as Internal Discipline Rules of Penitentiary Institutions, the recommendations were put forward regarding increasing the number of legal awareness events for service staff.

Within the framework of the activity of the Ombudsman as the NPM the visit was held without prior notification in ***Penitentiary Institution No.2***. The aim of the visit conducted upon the demands of the OPCAT and

²⁷ The United Nations Standard Minimum Rules for the treatment of prisoners, (Nelson Mandela Rules) ,109

²⁸CPT,GR3, paragraph 43.

the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was the investigation of the treatment of detainees and their detention conditions, ensuring the prisoners' rights, as well as the conduction of the documentation. Within the framework of the visit conducted with the participation of doctor – member of the NPG, the detention conditions, nutrition, food supply were inspected, for this aim the cells, canteen of this institution were visited, as well as the situation with ensuring the rights to medical aid, walking, phone conversations, legal aid and others was investigated and tête-à-tête meetings were carried out with the detainee's.

Within the framework of the visit numerous prisoners in this institution were received individually, also several persons I. Mammadov and G. Ibrahimov were received tête-à-tête upon their requests; their applications were investigated on the spot. During the reception the prisoners were explained their rights, demands of relevant legislation, the competences of the Ombudsman, legal advices were given to each of them upon the raised matters²⁹. During the reception only G. Ibrahimov expressed that he had been subjected to ill-treatment at the time of his entry into the institution. In this regard the Commissioner urged to the General Prosecutor and his lawyer was informed about the result of the issue.

During the visit, the work done to improve the detention conditions, including new short and long term dating sites, club, auxiliary canteen, telephone conversations, general canteen and bath-repair and reconstruction work were observed.

The administration of the investigation isolator was given relevant recommendations on further improving of detention conditions, lighting, ventilation, eliminating deficiencies in natural light.

At the end of the visit, the administration of the investigation isolator was given relevant recommendations on further improving of detention conditions, the medical service and documentation basing on the national and international standards, the Law of the Republic of Azerbaijan on "Ensuring the rights and freedoms of persons kept in detention places" and Internal Disciplinary Rules in Investigation Isolators, legal awareness measures targeted at the service staff were conducted.

During the visit, it was determined that the medical registry, the date of illness, the number of injuries increased, shortcomings have been raised and appropriate recommendations have been provided for the solution.

European Prison Rules defines that, prisoners shall be provided with a nutritious diet that takes into account their age, health, physical condition,

²⁹<http://modern.az/az/news/138003#gsc.tab=0>

*religion, culture and the nature of their work. Food shall be prepared and served hygienically*³⁰.

At the end of the visit the discussions were carried out with the head of the institution the recommendations were put forward regarding increasing the number of legal awareness events for service staff.

The aim of the visit held by the members of the Ombudsman's NPG in **PI No.7** was investigation of detention conditions and treatment matters, ensuring of detainees' rights in compliance with the international standards and internal disciplinary rules of PIs, also conduction of relevant documentation.

According to national and international standards, during the visit the NPG members visited living area, MSU, quarantine room, penal isolator, meeting places and other objects of the institution, monitored current situation with and documentation on the detention conditions, nutrition, drinking, hot and cold water supply, medical aid, receiving of parcels, walking, meeting and phone conversations, investigated on the spot the measures carried out for implementation of recommendations put forward during the previous visits.

In order to investigate the treatment matters tête-à-tête meetings were carried out with the detainees in the visited cells, their appeals were heard, legal advice on the raised issues, the competences of the Ombudsman and legislation demands were explained to each of them. The other prisoners urged with similar requests were given legal advice and explained the Ombudsman's competences, the relevant measures for ensuring their rights were carried out.

At the end of the visit the discussions were carried out with the head of the institution on improvement of detention conditions, medical service, nutrition quality, conduction of documentation in compliance with the national and international standards, as well as Internal Discipline Rules of Penitentiary Institutions, the recommendations were put forward regarding increasing the number of legal awareness events for service staff³¹.

Within the framework of the activity of the Ombudsman as the NPM upon the demands of the OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan the visit was held in **PI No.9**. The aim of the visit was the investigation of the treatment of detainees and their detention conditions, ensuring the prisoners' rights, as well as the conduction of the documentation.

³⁰European Prison Rules, article 22

³¹<http://azpolitika.info/?p=352418>

Within the framework of the visit conducted with the participation of doctor – member of the NPG visited living area, MSU, quarantine room, penal isolator, meeting places and other objects of the institution, monitored current situation with and documentation on the detention conditions, nutrition, drinking, hot and cold water supply, medical aid, receiving of parcels, walking, meeting and phone conversations were controlled. In order to investigate the treatment matters tête-à-tête meetings were carried out with the detainees in the visited cells, their appeals were heard, legal advice on the raised issues, the competences of the Ombudsman and legislation demands were explained to each of them.

At the end of the visit the administration of the institution was given several recommendations on further improvement of the detention conditions and treatment, rendering medical care and of conduction the documentation in compliance with the national and international legislation, including the Internal Disciplinary Rules in the PIs³².

The members of the NPG within the framework of the Ombudsman's activity as an NPM held *ad-hoc* visit in ***Penitentiary Institution No.12***. The aim of the visit conducted upon the demands of the OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was the investigation of the treatment of detainees and their detention conditions, ensuring the prisoners' rights, as well we the conduction of the documentation.

During the visit the NPG members monitored the living area, quarantine room, meeting places and other objects of the institution, inspected current situation with and documentation on the detention conditions, nutrition, drinking, hot and cold water supply, phone conversations, also the measures carried out for implementation of the recommendations put forward during the previous visits.

During the confidential conversation with prisoners some of them expressed their dissatisfaction with the court decision upon the case, asked for assistance in restoration of relevant term. The prisoners were given legal advices upon all raised matters.

In order to investigate the treatment matters tête-à-tête meetings were carried out with the detainees, the status of provision of rights and documentation were learned on the spot.

At the end of the visit the discussions were carried out with the administration of the institution on further improvement of detention conditions, medical service, conduction of documentation in compliance with the national and international standards, as well as Internal Discipline

³²<https://apa.az/xeber-az/hadise/ombudsmanin-emekdaslari-9-sayli-cezacekme-muessisesine-bascekme-keciribler-2162.html>

Rules of Penitentiary Institutions, the recommendations were put forward regarding increasing the number of legal awareness events for service staff³³.

The members of the NPG visited without prior notification to the **PI No.13**. The aim of the visit held in **PI No.13** was investigation of received applications, detention conditions and treatment, ensuring the rights of detainees³⁴. During the visit the NPG members were visited various parts of the enterprise, MSU, quarantine room, penal isolator, medical and sanitary part, dining room and food store.

Within the framework of the visit detainees B.Mammadov, I.Rustamzade, E.Gahraman, as well as several persons were received individually upon their request, they were heard and some applications on detention conditions were investigated on site and solved.

Within the framework of the visit, penalties against B.Mammadov and his hunger strike as a protest to the decision, as well as other prisoners I.Rustamzade and E.Gahraman expressed their objections to the lawlessness against him and others expressed their moral support to him, as well as media reports were investigated³⁵.

For this purpose, the service staff of the institution, including their other convicts, has been interviewed, a number of objects were examined, the necessary documents and registration books were investigated. During the conversation with prisoner B.Mammadov it was noted that, when he came to the institution, the bed he was offered had a bad effect on his health and until now that the issue had not been resolved and he asked for appropriate assistance. The appeal was immediately raised and resolved before the institution and the Penitentiary Service³⁶.

At the end of the visit the discussions were carried out with the administration of the institution in compliance with the national and international standards, the recommendations were put forward regarding increasing the number of legal awareness events for service staff.

The members of the NPG on the basis of the commissioner's assignment visited to the **PI No.14**.

The aim of the visit conducted upon the demands of the OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman)

³³<http://www.gununesi.info/ombudsman-%C9%99m%C9%99kdaslari-12-sayli-c%C9%99zac%C9%99km%C9%99-mu%C9%99sis%C9%99sind%C9%99-monitorinq-aporib/>;

³⁴<https://novator.az/2017/05/01/bayram-m%C9%99mm%C9%99dov-v%C9%99ziyy%C9%99tinin-agir-oldugunu-soyl%C9%99yib/>;

³⁵<http://vetenugrunda.az/azaerbaydzan/siyasaet/item/3368-bayram-maemmaedovun-sadzhlar-n-zh-rkh-b-kars-a-sal-blari>;

³⁶<http://bastainfo.com/az/2017/10/20/milli-preventiv-grup-bayram-m%C9%99mm%C9%99dov-ilkin-rust%C9%99mzad%C9%99-elgiz-q%C9%99hr%C9%99manli-il%C9%99-gorusub/>.

of the Republic of Azerbaijan was the investigation of the treatment of detainees and their detention conditions, ensuring the prisoners' rights, as well as the conduction of the documentation.

Within the framework of the visit conducted with the participation of doctor – member of the NPG visited living area, MSU, quarantine room, penal isolator, meeting places and other objects of the institution, monitored current situation with and documentation on the detention conditions, nutrition, drinking, hot and cold water supply, medical aid, receiving of parcels, walking, meeting and phone conversations were controlled.

Within the framework of the visit numerous prisoners in this institution were received individually, also M.Huseynov was received tête-à-tête upon his request; their applications were investigated on the spot³⁷.

The received persons did not express dissatisfaction with the treatment by the institution staff. During the reception of prisoners their rights, the demands of relevant legislation, the competences of the Ombudsman were explained to them, they were given legal advice on each raised matter.

The prisoner M. Huseynov noted that he had not been provided with ID cards for several years and the appeal addressed to the Ombudsman was provided by the removal of the Ministry of Internal Affairs of Azerbaijan Republic³⁸.

At the end of the visit the administration of the institution was given some recommendations on further improvement of the detention conditions, medical service and conduction of the documentation in compliance with the national and international legislation, including the Internal Discipline Rules and the importance of the Presidential Decree assigned on 10 February, 2017, on improving work in the penitentiary system, humanization of the punishment policy and expansion of alternative punishments and procedural enforcement measures was emphasized.

The members of the NPG without prior notification visited to the *PI No.15*. Within the frames of the activity of the Ombudsman as an NPM upon the demands of the OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan the aim of the visit was the investigation of the treatment of detainees and their detention conditions, ensuring the prisoners' rights, as well as the conduction of the documentation.

Within the framework of the visit held with participation of the NPG doctor-member the prisoners from different objects of the institution were

³⁷<https://report.az/sosial-mudafie/ombudsman-apatinin-numayendeleri-mehman-huseynova-bas-cekibler/>

³⁸<http://muxalifet.az/ombudsman-ramil-usbovu-mehman-huseynovu-sxsiyyt-vsiqsi-il-tmin-etmy-cagrir.html>

individually received, the conversations were carried out on treatment issues, the dormitories, nutrition, medical aid were inspected for detention conditions, as well as the documentation were investigated.

At the end of the visit the administration of the institution was given some recommendations on detention conditions and treatment in compliance with the national and international legislation, including the Internal Discipline Rules in Penitentiary Institutions.

The members of the NPG without prior notification visited the *PI No.17*. The visit was held within the framework of the activity of the Ombudsman as an NPM upon the demands of the OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. During the visit the detention conditions and treatment issues were investigated, also relevant documentation was controlled on site.

Within the framework of the visit the persons appealed to the Commissioner, as well as several persons were received individually upon their request, they were heard and some applications on detention conditions were investigated on site and solved.

During the reception of prisoners their rights, the demands of relevant legislation, the competences of the Ombudsman were explained to them, they were given legal advice on each raised matter.

At the end of the visit the discussions were carried out with the administration of the institution on further improvement of detention conditions, medical service, conduction of the documentation in compliance with the national and international standards, as well as Internal Discipline Rules of Penitentiary Institutions, the recommendations were put forward regarding increasing the number of legal awareness events for service staff³⁹.

The visits conducted to the Prison of the Penitentiary Service were with prior notification and without prior notification. The purpose of the visit was to assess the general detention condition and treatment in the prison facility, 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 detention 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 conditions were monitored.

³⁹<http://www.ombudsman.gov.az/az/view/news/761/ombudsmanin-milli-preventiv-grupu-terefinden-17-sayli-cezachekme-muessisesine-bashchekme-heyata-kechirilmishdir>;

During the investigation, it was found out that the institution needed modern psychological and social services, rehabilitation of persons deprived of their liberty for a certain period of time, and the need to create new production areas to pay certain wages to their personal needs.

There was a shortage of medication during the visit to the Medical-Sanitary Department and the USM device was not working. Head of the Medical-Sanitary Department noted that he had applied for medicinal products for some time. Incompatibility and lack of journals were also found. The problem of the lack of neuropathology was also one of the issues raised. It was noted that there were problems with delivery to the Treatment Facility.

The CPT considers that anyone against whom an EDW has been used should, in all cases, be seen by a doctor and, where necessary, taken to hospital. Doctors and accident/emergency services should be informed of the ways in which persons who have been the target of such weapons may be affected and of the relevant forms of treatment, from the standpoint of both physical and psychological health. Further, a medical certificate should be given to the persons concerned (and/or to their lawyer, upon request)⁴⁰.

Within the framework of the visit numerous prisoners, as well as several urged persons were received individually, their appeals were investigated on the spot. In general, the received prisoners made no complaints on detention conditions and treatment. During the reception of prisoners their rights, the demands of relevant legislation, the competences of the Ombudsman were explained to them, they were given legal advice on each raised matter.

At the end of the visit it was requested to the Ministry of Justice concerning the provision of prisoners' appeals. The Ombudsman's appeal was addressed to the Penitentiary Service at the meeting held with the participation of chiefs of the institutions in order to eliminate them and avoid duplication in the future, concrete tasks have been given and the implementation of the recommendations has been officially reported.

The aim of the without prior notification visit was to investigate the appeals addressed to the Ombudsman. A petition was received by NPG members in the penalty cell where A.Huseynov was detained in connection with the appeal of lawyer Y.Imanov. As a result of the incident, the appeal of A.Huseynov and his lawyer was raised by the Ombudsman to the Prosecutor General and the appeals were answered⁴¹.

The planned visits to the Sheki Penitentiary Institution were held. Within the framework of the activity of the Ombudsman as an NPM upon the

⁴⁰CPT,GR2,92(3).

⁴¹<http://azadpress.info/2017/09/18/ombudsman-apatari-abbas-huseynova-gor%C9%99-bas-prokrorluga-m%C9%99ktub-gond%C9%99rib/>

demands of the OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan the aim of the visit was the investigation of the treatment of detainees and their detention conditions, ensuring the prisoners' rights, as well as the conduction of the documentation. Within the frames of the visit numerous prisoners, as well as several urged persons were received individually, their appeals were investigated on the spot. During the reception of prisoners their rights, the demands of relevant legislation, the competences of the Ombudsman were explained to them, they were given legal advice on each raised matter.

At the end of the visit the discussions were carried out with the administration of the institution on further improvement of detention conditions, medical service, conduction of the documentation in compliance with national and international standards, as well as Internal Discipline Rules of Penitentiary Institutions, the recommendations were put forward with increasing the number of legal awareness events for a service staff. During the next visits, the implementation of recommendations was checked on the spot.

The aim of the visit to *Medical Institution of the Penitentiary Service* within the frames of the activity of the Ombudsman as an NPM upon the demands of the OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was the investigation of the treatment of detainees and their detention conditions, ensuring the prisoners' rights, as well as the conduction of the documentation.

Within the framework of the visit conducted with the participation of doctor – member of the NPG, the arrested persons from different objects of the institution were received, the works carried out on treatment matters, detention conditions with regard the switch to a summer regime, ventilation, nutrition, water supply, medical aid, as well as the status of implementation of recommendations put forward during the previous visits were investigated on the spot.

Prisoners did not express dissatisfaction with the detention conditions, treatment by the staff of the institution and the main requests were about improving the quality of medical care. The appeals were raised to the Ministry of Justice and assignments were given to the Medical Department of the organization, preventive measures were taken and appeals were provided.

It should be noted that the availability of medical care for prisoners has a broad system of guarantees. According to Code of the Execution of Punishments Article 10.2.5, prisoners have the right to receive medical care

in outpatient or inpatient settings, depending on the medical opinion, including the first medical aid.

The 3rd part of European Penitentiary Rules covers "Health Protection and Medical Services" and states the necessity of providing medical care in penitentiary institutions such as medical care, medical staff, physician duties, medical care, and mental health.

The CPT considers that, it is desirable for the prisoner to provide a brochure or booklet that informs the prisoner of the existence and operation of medical care and reminiscent of basic hygiene measures.

At the end of the visit the discussions were carried out with the administration of the institution on further improvement of detention conditions according to national and international legislation.\

During the visit to **PCSM № 5**, the NPG member monitored detention conditions and treatment issues and inspection rooms were visited. There is a need to improve the detention conditions at the institution. Thus, despite the Intentional Disciplinary Rules of Prisons, there is no shop, a playground, a laundry room, a private dining room, no booths and a medical station. There is a need in medical expert, psychologist into the staff of the Stationary Penitentiary Institutions, renovating the rooms and supplying new beds, to inform the institution staff on the NPM mandate and the internationally recognized standards for detainees.

In 2017, Commissioner and the NPG members have made a significant contribution to the activities and preventive measures for the effective co-operation and promotion of human rights, the restoration of violated rights, extradition and legal reforms in cooperation with the Ministry of Justice and the PI. The suggestions made by Commissioner in relation to those issues were taken into consideration and the Ministry of Justice and Prosecutor's General took relevant measures.

On the basis of the recommendations to improve the detention conditions, repairs were carried out in the penitentiary facilities of **PI No. 2**, 6 and 9 and the damaged part of the roof was refurbished. In the **PI No.7** sanitary junctions were repaired in the bedrooms, and telephone booths were equipped with additional booths.

The gas line at the **PI No. 2, No. 9, 17**, specialized treatment facility was completed for the purpose of installation, repair work was carried out at the Penitentiary Institution No. 12 in the short-term meeting room, canteen, prisons and bedroom, the roof part has been replaced with new ones. The baths for the prisoners have been repaired and the water line has been renewed. Correctional facilities of the **Investigation Isolator No. 2**, dormitories for prisoners were involved in business and household services,

repairs were carried out in the kitchen and other household objects, old farms were repaired and used as a warehouse and a gym.

Repair work was carried out in housing units, libraries, penal colonies and meeting rooms of the facility and NPM recommendations based on improvement of detention conditions were directed to the implementation.

The food and logistical support of prisoners and detainees is brought in line with the requirements of the Cabinet of Ministers of the Republic of Azerbaijan, dated September 25, 2001, and dated 18 February 2013, Decisions No. 22, installation of new, modern-type furnaces in baking shops, the use of proper technology and the quality of the bread given to prisoners as a result of use of high quality products has been reported.

From this point of view the recommendations on improving the quality of nutrition are checked during visits on the spot.

As a result of the visits to facilities of the Penitentiary Service, without prior notification, the issues raised by the Commissioner on enterprises to the Ministry of Justice of the Republic of Azerbaijan, receiving parcels, telephone conversations and difficulties with sending complaints, need for adequate measures to prevent self-injury and to strengthen control over them, daily monitoring of the health of prisoners as well as formal control of sanitary-epidemiological situation in the prison isolation ward by medical personnel, the need to improve the documentation and adjustments to records in relevant journals, establishment of barriers to the treatment facility and, in some cases, lack of efficiency in the inspection and treatment facilities, hunger strikes, imprisonment in penal custody, improper attitude towards prisoners imposed on a special vehicle, prevention of corruption elements and other issues took place.

Within the framework of the execution of recommendations it was mentioned in official responses that, the implementation of the recommendations on corruption, and other negative cases and the principal decision has been made in this direction. It was mentioned that suicide cases in investigative isolators and other penitentiary institutions happen because of they were dissatisfied with the ongoing primary and court proceedings, while others were related to family problems or nervous disorders.

As a result of carried out preventive measures, it was noted that, the number of casualties among prisoners and detainees decreased by 19% compared to the same period last year, penalties were being monitored by medical staff every day, and the relevant registration and documentation work was strengthened, measures were taken to eliminate and prevent deficiencies.

The Ministry of Justice has regularly reviewed the issues raised by the Commissioner by relevant subordinate agencies, the staff members are

trained in the official response to the review of internationally recognized standards, SPT and CPT recommendations, and the implementation of recommendations in the practice, and the NPG members are monitored on-site within the framework of the recommendations.

2.2.3. The institutions of the State Security Service

Within the framework of the activity of the Ombudsman as an NPM 6 visits were conducted with participation of the Commissioner and members of her NPG in the Temporary Detention Place and Investigation Isolator of the State Security Service.

The purpose of the visit without prior notification was to assess the detention condition and treatment, ensuring rights of detainees and as well as the proper documentation of the situation was examined on the spot.⁴²

The necessary conditions have been created for the effective implementation of visits to the facility.

During the visits the detention conditions, food supply were inspected, for this aim the cells, kitchen and food depot were visited, as well as the situation with rendering medical aid, walking, phone conversations, ensuring of legal aid and other rights was investigated.

Tête-à-tête meetings were conducted with the persons detained in the visited cells for investigation of treatment issues and the received persons made no complaints on the treatment by the staff of the Temporary Detention Place and Investigation Isolator and detention conditions.

Their applications were heard and legal advice was given to each of them upon raised issues, the competences of the Ombudsman and legislation demands were explained to them as well.

At the end of the conducted visits the discussions were held with the administration of the institution was given some recommendations on further improvement of the detention conditions, medical service and conduction of the documentation in compliance with the national and international legislation, the relevant recommendations were put forward⁴³.

⁴²<https://sputnik.az/life/20170329/409567352/ombudsman-dtx-da-olub.html>

⁴³<http://femida.az/az/news/66208>

2.2.4. The institutions of the State Migration Service

In 2017, NPG members held 4 visits to the State Migration Service. The aim of the visit without prior notification under the OPCAT requirements to the Baku Detention Center for Illegal Migrants was detention conditions, conduction of the documentation and ensuring the rights of detainees.

A member of the NPG's doctor attended at the visit, and during the visit housing conditions, accommodation and medical rooms, interviews, dining-room, food storage and other facilities were visited. During the visit to the center, only volunteers were placed in the center and were not internally displaced in accordance with the legislation. The received detainees did not express their dissatisfaction. Although the condition of the corpus was normal, the housing was empty for the internally displaced people, but there was a need to improve the situation here.

At the same time, applications addressed to the Commissioner, as well as calls to the Hotline Service, also contained requests for assistance in meeting the lawyers in this facility. For example, with regard a citizen of the Russian Federation V.I detained by the State Migration Service staff, his spouse and lawyer filed a complaint to the Ombudsman's Hotline Service on whether they could not obtain any information about him in the context of the visit. The internationally wanted person was not detained in the facility and given to investigating authority, and his location was determined and applicants were informed.

The conditions created for married women, women with children, juveniles as well as for foreigners in need of medical supervision, living rooms, and special meals to be provided for them were the subject of investigation. Implementation of recommendations made during the previous visits was also monitored on site.

During the visit, the reception and handover to the center, registration history in documentation, shortcomings in the records of the detainees' in their personal files, failure to sign any documents, failure in preparation of any act on the injured person were defined and the head of the center was informed and recommended to eliminate them.

The NPG members held visit in the ***Yevlakh District Detention Center for Illegal Migrants***.

The aim of the visit was monitoring the detention conditions, nutrition, conduction of the documentation, accessibility of medical service, ensuring the rights of detainees in compliance with the Migration Code of the Republic of Azerbaijan, as well as international legislation. It was observed there was a need for the organization of a library, a barbershop and the medical center.

At the same time, there is only one female professional assistant in the enterprise, it was determined that the same staff had been involved in both medical examinations and personal search activities of female migrants, which would create some difficulties in the organization of the detention center for women migrants.

Foreigners and stateless persons placed in the Yevlakh District Center for the Detention of Illegal Migrants the absence of a telephone conversation point was observed in order to exercise the right to use telecommunication provided for in Article 87.1.20 of the Migration Code of the Republic of Azerbaijan.

Generally, as it mentioned in CPT recommendations, as one of the main guarantees of rights of persons, meeting with a lawyer, ensuring confidentiality, adequacy of quality and quantity in food quality, increasing the number of women workers, effective access to healthcare services, improvement of documentation were recommended to the institution.

At the end of the visit the administration of the institution was given recommendations basing on national and international standards.

2.2.5. The institutions of the Ministry of Health

Within the framework of the activity of the Ombudsman as the National Preventive Mechanism, the NPG members carried out 37 visits upon the OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan demands to the institutions of the MH that are under the jurisdiction of the NPM. The visits were held on the basis of the national legislation, the Law of the Republic of Azerbaijan "On Psychiatric Assistance", as well as international standards, including the provisions enshrined in the Mental Health Declaration of Human Rights, UN Principles for the Protection of Persons with mental Illness and the Improvement of Mental Health Care and SPT rules.

During the previous visits, the execution status of the recommendations was checked; major repairs of the Guba Interregional Psychiatric Hospital, improvement of storage conditions, improvement of the general condition and condition in the Salyan Interregional Psychiatric Hospital, and major repair works carried out in the Gazakh District Psychiatric Hospital were observed.

From this point of view, recommendations were given to the head of institution according to the national and international standards for issues that have been identified during visits and where it can be avoided, UN based on the "Principles for the Protection of Psychiatric Patients and Psychiatric Assistance", the Minimum Standards for the Treatment of

Patients and the Treatment of Mental Disorders, and there were carried out legal awareness conversations targeted at the head and staff of institution for the protection of rights of persons detained in the psychiatric institutions, for prevention of any ill – treatment towards them may occur in future.

The NPG members carried out a visit upon the OPCAT demands in ***Ganja City Psychiatric Hospital***. During the visit the premises of the enterprise, canteen and cuisine, food storage, pharmacy, sanitary junctions, meeting and rest rooms and other facilities were examined. During the course of the visit, recommendations were made with regard the fact that the premises had problems with heating, poor supply of gas and old heating system, as well as major repairs, clothing and bedding in departments, and taking necessary measures and improving the storage conditions were observed.

According to the international standards and the requirements of the conditions of detention of patients in the psychiatric institutions of the European Committee for the Prevention of Torture, each individual patient is required to have sufficient personal space.

During the visit it was revealed that the conditions in the departments are not favorable for the persons with the mental illness, the deficiency of medicines has been determined, and due to these issues recommendations were given to the MH within framework of the Ombudsman as an NPM.

During private interviews with patients, they did not complain, but made appeals to improve the situation in the rooms and nutritional support. From this point of view, there is a need to continue the activities related to solution of the issues. During the visit, it was found that the condition of the meeting rooms was normal in the institution, although it was found that the patient had no documentation about the meeting with family members and relatives that the relevant registration was not performed and it was recommended to eliminate this issue.

Among the issues raised by the Ministry of Health within the framework of the NPM activity there was also the acceleration of work on the construction of a new psychiatric hospital in Ganja city.

During the visit by the NPG members under the demand of the OPCAT to the ***Gazakh Inter-Regional Psychiatric Hospital*** conversations with head of the hospital were held, the two-storey building of the hospital, wards for women and men, rooms for doctors and nurses, canteen, cuisine, food storage and other facilities were investigated.

Taking into account our previous recommendations, the condition of the central heating system installed in the enterprise and the general state of conditions in the departments, the hygiene, the presence of normal window

lighting and ventilation, and the number of patients kept in the chambers fit the chamber capacity was observed.

In addition, relevant recommendations were given to the head of the institution on improving the control over the rules for the storage of medicines in the enterprise, improving the recording of daily medication appointments, improving conditions in the women's department and sanitary junction, renovation of the laundry system and to provide them with adequate equipment.

At the end of the visit the administration of the institution was given recommendations basing on the national and international standards.

During the visit by the NPG members under the demand of OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan to **Sheki Inter-Regional Psychiatric Hospital** conversations with head of the hospital were held.

In order to investigate the conditions of detention within the scope of the visit, a review of the premises of the company, canteens and cuisine, food storage, pharmacy, sanitary junctions, meeting and rest rooms and other facilities was conducted.

There are rehabilitation and psychiatry departments at the hospital. It was observed that the condition of the premises was normal; the patients had the necessary foodstuff in the food store, there is need to improve the canteen and the sanitary junctions.

During the visit, it was observed that the premises were crowded in the chambers of the enterprise, the number of rooms was insufficient, there was no separate heating system in the chambers, the heaters were installed only in the corridors and the enterprise was undamaged.

In terms of improvement of detainee conditions, the issue of building a new building for Sheki Interregional Psychiatric Hospital is actual and the issue has been raised before the Ministry of Health, including other recommendations.

Due to the requirements for the condition of the patients in the psychiatric institutions of the CPT, each patient should have sufficient personal space and no density⁴⁴.

At the end of the visit the administration of the institution was given recommendations basing on the national and international standards.

The NPG members held visit in **Salyan Inter-Regional Psychiatric Hospital**. The aim of the visit under the demand of OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was the evaluation of detention conditions,

⁴⁴Стандарты ЕКПП «Существенные» разделы общих докладов ЕКПП.с 63.СРТ/Inf/E (2002) 1 – Rev. 2015

treatment, monitoring the status of implementation of the recommendations put forward during the previous visits.

There are three sections in the hospital. Department number 1 is a women's section and is located on the second floor of the building. While visiting the women's room, for registry, also personal belongings, room for guard, guest room, medical worker's room, bath room, disinfection, insulation rooms and kitchen were inspected.

The sanitary and hygienic rules were observed in the women's section, but the radiators did not work during daylight hours. Individual conversations with the people in the section were conducted and the patients expressed that they did not have any complaints.

While visiting the men's section, all the chambers, including personal belongings, storage room, meeting room, medical worker's room, bath room, sanitary junction, disinfection, insulation room, and kitchen were examined. In the men's department, heat radiators were not working during the daytime and the chambers were cold. The passengers reported that the radiators were burnt at night.

Density was observed in the hospital. The issue of housing and density is one of the most important issues in international standards⁴⁵.

Our recommendation on eliminating the problem of density and the other recommendations and possible recommendations on the ground have been raised to the administration of the enterprise the Ministry of Health.

At the end of the visit the administration of the institution was given recommendations basing on the national and international standards.

Visits were held under the demand of OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan to the ***Guba Inter-Regional Psycho-Neurological Rehabilitation Center***.

During the visit, in order to investigate the conditions of detention, visits to the general area, departments, observation rooms, chambers, doctors' rooms, recreation and meeting rooms, kitchens, canteen, baths, sanitary nodes, warehouses and administrative building were investigated.

It should be noted that the capital repair of the enterprise was completed in December 2016 and started again in the beginning of 2017. In this respect, the infrastructure of the enterprise meets the relevant requirements.

A group of patients who were admitted to the Psycho-Neurological Center were treated separately in order to investigate the treatment matters tête-à-tête meetings were carried out with them. They did not express their

⁴⁵ Стандарты ЕКПП «Существенные» разделы общих докладов ЕКПП.с 63.CPT/Inf/E (2002) 1 – Rev. 2015

dissatisfaction on the conditions of detention and treatment of the employees.

At the end of the visit the administration of the institution was given recommendations basing on the national and international standards.

Visit was held to the Orphanage Home of Ganja City Health Department. The visit was held under the demand of OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan.

During the visit by NPG members three buildings of the Orphanage Home under the Ministry of Health were inspected: administrative buildings and dormitories, laundry, food storage, canteen.

The bedrooms, gym, meeting rooms, storage rooms and security issues for babies under the age of 3 were inspected.

As a result of visit, it was found out that there is need to improve conditions in enterprise premises, capital repair of infant beds and provision of new inventory, placement of children with limited health in the other institutions, the effective organization of treatment, to increase the awareness of employees about the relevant normative legal acts regulating the activity of the enterprise.

Within the framework of the visit recommendations on the existing international standards in the field of child rights, about the mandate of the NPG were given to the employees of the Ganja Orphanage Home.

At the end of the visit the administration of the institution was given recommendations basing on the national and international standards.

Visit was held to Ganja Regional Necrology Dispensary within the framework of the Commissioner's National Preventive Mechanism. The visit was held under the demand of OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. During the visit a meeting with the head of the dispensary was held, preliminary information was given on the NPM and its mandate.

The facility is functioning since 1985 and the wards in the building are becoming increasingly useless and need improvement in detention conditions. Similarly, the same situation is observed in administrative and service rooms of the enterprise, food, storage rooms and other places, and recommendations were given to eliminate them.

As the result of the visit conducted by the NPG members the construction of a new building for the dispensary, familiarization with the normative acts regulating the operation of the dispensary staff, improving the registration process, and ensuring the diversity of the patient's nutritional requirements were recommended to the administration of the dispensary.

In this regard, nutrition is one of the most important factors according to the relevant standards of keeping patients in CPT closed institutions. CPT believes that food ration should be adequate in terms of quality and quantity⁴⁶.

At the end of the visit the administration of the institution was given recommendations basing on national and international standards and with regard the elimination of the abovementioned shortcomings.

We hope that the Ombudsman's recommendations regarding these enterprises and issues raised by the NPM within the framework of the NPM activities will be addressed in the context of the reforms undertaken in the health sector, initiatives on the development of medical services, capital repair and reconstruction of medical institutions, hospitals, and improvement of the material and living conditions of these facilities will be solved.

2.2.6. The Institutions of the Ministry of Education

In 2017, within the framework of the activity of the Ombudsman as an NPM NPG members under the demand of OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan held 30 scheduled and *ad-hoc* visits in the institutions under the jurisdiction of the Ministry of Education which persons cannot leave on their own will.

Visits were held on the basis of national legislation, the Constitutional Law on the Ombudsman of the Republic of Azerbaijan, the Law of the Republic of Azerbaijan "On Children's Rights", as well as the UN Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, OPCAT, CPT recommendations, CPT standards, recommendations of the United Nations Committee on the rights of child.

The visits were held to ***Lenkaran City Integration Training Boarding Type Gymnasium*** by NPG members. The aim of the visit held by NPG members under the demand of OPCAT was monitoring the detention conditions, treatment of children in the institution.

During the visit bedrooms, classrooms and educational rooms, kitchens, baths, administrative rooms and common areas, detention facilities, treatment with children in the institution, their education and leisure time were investigated.

⁴⁶Стандарты ЕКПП «Существенные» разделы общих докладов ЕКПП.с 62. CPT/Inf/E (2002) 1 – Rev. 2015

Tête-à-tête meetings were conducted with the children for investigation of treatment issues and the received children made no complaints on the treatment by the staff.

At the end of the visit, basing on national legislation and the Convention of the Rights of the Child, the NPG members recommended to the administration of the school to carry out teaching of child rights, to keep under control the situation with treatment of children by the staff.

The visit was held in ***Lerik City Integrated Training Type Boarding School*** by NPG members under the demand of OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan.

The aim of the visit was to investigate treatment conditions and for this reason tête-à-tête meetings were conducted with the children for investigation of treatment issues as well as the canteen, dormitory and educational building of the enterprise were controlled.

It should be noted that the building was constructed in 1961 and during the review it was observed that there was a need for a major renovation of the dormitory and dining room, in general the enterprise, and improvement of storage conditions. At the same time, there was a need in primary health care facilities as well as in medication.

At the end of the visit, basing on national legislation and the Convention of the Rights of the Child, the NPG members recommended to the administration of the school to carry out teaching of child rights, to keep under control the situation with treatment of children by the staff.

The visit was held in ***Neftchala District Integrated Training Type Gymnasium*** by NPG members of the Commissioner.

The aim of the visit was to assess the treatment conditions, children's nutrition and the supply of medicines, medical care, heating supplies. During the visit the canteen of the enterprise, food stores, other rooms and relevant documents were reviewed. Tête-à-tête meetings were conducted with the children for investigation of treatment issues and their rights have explained to them.

There is also a need to improve the conditions of detention in this facility, and it is now known that the construction of a new dormitory for the enterprise is going on. We consider it is necessary to accelerate the construction as there is a need to improve storage conditions.

At the end of the visit the administration of the institution was given recommendations basing on the national and international standards and with regard the elimination of the abovementioned shortcomings.

The visit was held in ***the Integration Training Gymnasium of Boarding Type of Govlar city of Tovuz district*** by the NPG members.

Visits were held on the basis of national legislation, Constitutional Law on the Ombudsman of the Republic of Azerbaijan, the Law of the Republic of Azerbaijan "On Children's Rights", as well as the UN Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, OPCAT, CPT recommendations, CPT standards, recommendations of the United Nations Committee on the Rights of Child.

The school management informed that the facility operates since 1960. At the facility, the students from Gazakh, Aghstafa, Tovuz and Shamkir are currently studying.

During the visit the dormitories, classrooms and educational rooms, administrative rooms, kitchens, baths and common areas, the conditions of detention and treatment of children in the institution, their education and leisure time were investigated.

Tête-à-tête meetings were conducted with the children. Children were asked questions about the treatment issues, conditions and their rights were explained.

During the visit the school's medical center allocation of funds for the provision of essential medical care, renovation of classrooms, adequate equipment for the hostel, refreshment of the canteen and kitchen water system, transfer of food storage facilities to more refrigerated premises and health-consciousness were observed. Improvement of the organization's activities with documentation and related registries, and the involvement of children with disabilities in the health education of healthy children are also among these issues.

At the end of the visit, basing on national legislation and the Convention of the Rights of the Child, the NPG members recommended to the administration of the school to carry out teaching of child rights, to keep under control the situation with treatment of children by the staff.

The visit was held in ***Ganja City Football Retirement Type Boarding School*** by NPG members. The aim of the visit under the demand of OPCAT was to assess treatment conditions and conditions of detention in the enterprise.

The gymnasium noted that over 50 children were accommodated on a 160-bedded maternity hospital, while 287 children were educated here.

During the visit gymnasium building consisting of 2 buildings, a dormitory, a canteen, a food store, a medical room, a football arena, baths and rest rooms were investigated. Despite the existence of heating systems in the gymnasium, due to the lack of natural gas, temporary electric heaters were used in dormitories and classrooms.

While the examining the medical room, some of the medicines were exposed in the wardrobe where the medicines were stored and the immediate removal was provided by the hospital.

According to the result of the visit the need for capital repair of the premises of the enterprise, provision with a qualified medical worker, increasing the control over the use of expired medicines were defined.

At the end of the visit, basing on national legislation and the Convention of the Rights of the Child, the NPG members recommended to the administration of the school to carry out teaching of child rights, to keep under control the situation with treatment of children by the staff.

The visit was held by the NPG members under the demand of OPCAT *to the Integration Training Gymnasium of Boarding Type of Mingachevir.*

The aim of the visit was to assess treatment conditions, children's nutrition and the supply of medicines, medical care, heating supplies.

During the visit, the canteen, food store, other rooms and relevant documents were examined. Relevant conversations were made with the children living in the institution, their rights were explained. During the visit, the necessity of repair of the Gymnasium building was observed. There is a need to bring the enterprise to new, up-to-date standards. The administration of the enterprise said that issues related to improving the conditions of detention and the renovation of the enterprise were raised before the Ministry of Education.

At the end of the visit, basing on national legislation and the Convention of the Rights of the Child, the NPG members recommended to the administration of the school to carry out teaching of child rights, to keep under control the situation with treatment of children by the staff.

The visit was held by the NPG members under the demand of OPCAT *to the Integration Training Gymnasium of Boarding Type of Balaken.* This facility has been operating since 1966. Gymnasium was renovated in 2016, taking into account the recommendations of the Commissioner in the framework of the NPM activities. Currently, 184 children are enrolled here. 80 children stay for night, except Saturdays and Sundays. The dormitory has 120 beds. There are 25 teachers, 31 technicians and 9 tutors in the facility.

The gymnasium is equipped with a heating system. The issue has been raised before the Ministry of Education for the purpose of resolving shortcomings in the construction of the school's internal heating energy. Tête-à-tête meetings were conducted with the children for the investigation of treatment issues and their rights were explained to them.

At the end of the visit the administration of the institution was given recommendations basing on national and international standards and with regard the elimination of the abovementioned shortcomings.

During the visit to ***Guba Special Vocational School*** dormitories, 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 institution were received privately; individual conversations were conducted with them; treatment, guarantees and living conditions were investigated and also they were explained their rights. Children did not complain about the treatment by the institution staff members.

There is a need in renovation of the premises of the facility, to improve the conditions of detention, to bring them to the new, up-to-date standards. The management of the company said that issues related to improving the conditions of detention and the renovation of the facility were raised before the Ministry of Education. It should be noted that the issue of improving the conditions of detention at this facility was raised before the Ministry of Education within the framework of the Commissioner's activity as an NPM.

At the end of the visit, basing on national legislation and the Convention of the Rights of the Child, the NPG members recommended the administration of the school to carry out teaching of child rights, to keep under control the situation with treatment of children by the staff.

The visit to was held in ***Guba City Secondary Boarding School for Children deprived of Parental Care*** in accordance with the OPCAT. During the visit dormitories, 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 institution were received privately; individual conversations were conducted with them; treatment, guarantees and living conditions were investigated and also they were explained their rights. Children did not complain about the treatment by the institution's staff members.

At the end of the visit, basing on national legislation and the Convention of the Rights of the Child, the NPG members recommended to the administration of the school to carry out teaching of child rights, to keep under control the situation with treatment of children by the staff.

The visit to was held in ***Khinalig Full Boarding School*** by NPG members in accordance with national legislation and international standards.

Visits were held on the basis of national legislation, Constitutional Law on the Ombudsman of the Republic of Azerbaijan, the Law of the Republic of Azerbaijan "On Children's Rights", as well as the UN Convention on the

Rights of the Child, the Convention on the Rights of Persons with Disabilities, OPCAT's recommendations, CPT standards, recommendations of the United Nations Committee on the rights of the Child.

During the visit, the attendees examined the institution's dormitories, classrooms and educational rooms, administrative rooms, kitchens, general facilities and premises, detention conditions, treatment with children in the institution, their education and leisure time were investigated.

Children residing in the institution were received privately; individual conversations were conducted with them; treatment, guarantees and living conditions were investigated and also they were explained their rights. Children did not complain about the treatment by the institution staff members.

There is a need to improve the conditions of detention at ***Khinalig Full Intermediate Boarding School*** and major repairs in sanitary nurseries. The dining room and kitchen are fitted in a well-equipped room and do not meet the requirements.

At the end of the visit, basing on the national legislation and the Convention of the Rights of the Child, the NPG members recommended to the administration of the school to carry out teaching of child rights, to keep under control the situation with treatment of children by the staff.

2.2.7. The institutions of the Ministry of Labor and Social Protection of Population

Within the framework of the activity of the Ombudsman as an NPM the NPG members carried out 11 *ad-hoc* visits in 2017 under the demand of OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan to the institutions under the jurisdiction of the Ministry of Labor and Social Protection of Population.

The visits were held basing on the national legislation, the Law of the Republic of Azerbaijan On Psychiatric Assistance, as well as international standards, the UN Convention on the Rights of Persons with Disabilities, Declaration on the Rights of Mentally Retarded Persons, the UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care, UN Principles for Older Persons, the UN GA International Plan of Action on Aging, CPT and SPT rules.

The visit was held by NPG members in ***Social Service Institution No.2 for Children*** with Disabilities within the framework of the Commissioner's as a National Preventive Mechanism.

In addition to the NPG members, the UNICEF's Country Office's expertise on social work and medicine also attended at the visit and the aim of the visit was to investigate detention conditions and treatment issues.

The total limit of the facility for children aged 5 to 18 years old has been 200 people, and the actual date was 177 people on the list. Children are divided according to sex, age, health status.

During the visit, it was observed that the children were provided with education for the purpose of providing children's rights, where children with mental health are relatively well-being, leisure time and separate occupational skills.

During the visit the conversations were held with teachers, the treatment conditions were investigated towards them. There is a renovated doctor's office, 2 isolation rooms and a procedural room, a sports room. The rooms allocated for the medical unit are equipped with the necessary inventory and a number of modern diagnostic and physiotherapy medical equipment. During the conversation with doctors, it was noted that the facility did not have any problems with the supply of medicines.

It should be noted that the above-mentioned facility is provided with modern equipment.

At the end of the visit, conversations were conducted with administration and staff of the institution basing on national legislation and the Convention of the Rights of the Child, recommendations was given to improve the rights and interests of children and persons with disabilities and to improve their activities in this field by the NPG members.

The visit was held by NPG members in *Social Service Institution No.2 for Children* with Disabilities within the framework of the Commissioner's as an NPM.

In addition to MPG members, UNICEF's country office's expertise on social work and medicine was also attended at the visit and the aim of the visit was to investigate detention conditions and treatment towards them.

The total limit of the enterprise for children aged 5 to 18 years old has been 170 people, and the actual date was 140 people on the list.

During the visit all objects of the enterprise, including beds, classrooms and rehabilitation rooms, canteen and kitchens, rooms for leisure time, painting, music rooms, as well as a gym were investigated. During the meeting with the children, they were satisfied with the conditions, conditions, and attitude of the employees of the enterprise.

It was also reported that the trainees working in the institution were highly educated and also closely collaborated with representatives of the Norwegian Organization for Assistance to Azerbaijan (UAFA). The

interviews were conducted with teachers; their treatment towards children was investigated.

The hospital has a medical room, an isolation room and a treatment room that meets the modern requirements for medical care. There are 5 pediatricians and 0.5 therapists, 0.5 pediatric psychiatrists, 0.5 dentist, 0.5 physicians and 9 nurses. The nurses work with a shift schedule, including night shifts. They said they had called a doctor's team from an emergency medical emergency when needed at night. It should be noted that the rooms allocated for the medical unit are equipped with necessary inventory and a number of modern diagnostic and physiotherapy medical equipment. During the conversation with doctors, it became clear that there was no problem with the supply of medicines.

It was also reported that children underwent fluorography at the Central Polyclinic of Absheron City once a year, and once a year they were given mantle testing for children, and they applied to Saray settlement polyclinic for surgical and other qualified medical care and laboratory examinations.

It should be noted that taking into account the recommendations of the Commissioner activity as an NPM, facility was provided with the necessary equipment, storage conditions, nutrition, food security, medical care and other rights, as well as attitude towards children were evaluated satisfactory.

At the end of the visit, the conversations were conducted by the NPG members and UNICEF experts with administration and staff of the institution basing on national legislation, the Convention of the Rights of the Child and the Convention of the Rights of the Disabilities, recommendations was given to improve the rights and interests of children and persons with disabilities and to improve their activities in this field.

The visit was held in *the Psycho-Neurological Social Care Center No.3 of Goygol district* by the NPG members. Patients suffering from diseases such as schizophrenia, oligraphia and pelvic syndrome are detained at the facility. During the visit, the NPG members met with the facility's treatment and bedrooms, canteen and cuisine, common areas, children with physical disabilities, and persons with disabilities. They did not complain about the treatment by the institution staff members.

During the visits, the relevant registries of the facility, as well as documents and assignments of the detainees were also examined.

According to the results of the visit, it was observed that the 4-storey building of the facility had problems with the patients to be upgraded to the upper floors, as well as the repair of the elevator, to provide stomatological cabinet with staff and the need for daily medicines to increase the amount required for quality medicines.

At the end of the visit, conversations were conducted by the NPG members with administration and staff of the institution basing on the national and international legislation, the recommendations was given regarding the treatment, detention conditions, the effective provision and control of health and other rights, and the implementation of recommendations regarding possible difficulties in the field.

2.2.9. The institutions of local executive power bodies

Within the framework of the activity of the Ombudsman as an NPM the NPG members carried out 23 *ad-hoc* visits in 2017 under the demand of OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan to the institutions under the jurisdiction of the local executive bodies and NPM.

The visits were held basing on the national legislation, the Law of the Republic of Azerbaijan On Child Rights, as well as the UN Convention on the Child Rights, the provisions of the Convention on the Rights of Persons with Disabilities, the CPT Recommendations, the CPT Standards, the recommendations of the UN Committee on the Rights of the Child.

Taking into account international experience, the issues of detention and treatment issues in these institutions, as well as the provision of national and international standards in practice have been examined and the implementation of recommendations made during previous visits to enterprises were examined on the spot.

It was held visit in ***Baku City Children's Home No.2*** within framework Commissioners activity as an NPM, under the demands of OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan by NPG members. The aim of the visit was investigation of the detention conditions and treatment issues towards them.

Initially, a meeting was held with the director of a children's home, and it was found that 237 people were detained in the facility for a total of 300 people. Of these, 140 are children at the "Gunerzi Care Center" and 137 are permanently living in the facility. Children at the "Gunerzi Care Center", covering 3-13 year old children and they stay at the facility from 8:00 to 20:00 and have equal rights with other children living at that time.

There are three pre-school groups in the institution. Each group includes 2 teachers, 2 supervisors. According to the information given by the head of the institution, children aged 3 to 18 are taken by their parents and legal representatives and in case of their absence, they are registered in the graduate school in Masazir settlement and provided with the necessary living conditions. It was defined that the parent of the four children detained

in the facility was in the jail and they had no difficulties in shortage with their parents.

During the visit, the production and use of the stored food were examined, including the beds, lessons, medical rooms, rooms for leisure, drawing, music rooms, as well as a gym, a dining room and a kitchen were investigated.

The individual conversations were held with tutor-teachers, their attitude towards children was investigated. According to the punishment it was observed that when children do not read their lesson or argue with each other, they separate them from their favorite activities for some time.

The issue of treatment towards them has been investigated through confidential interviews with some group based on group games and random selection.

While familiarizing with the condition of the medical service to the children, it was revealed that there were 1 doctor-pediatrician, 1 doctor-dentist and 5 nurses for the organization of medical services.

During the investigation, it was found out that the activities of nearby polyclinics and private health care facilities were used when there was a need for comprehensive medical examination and treatment of children.

It has to be mentioned that, the condition at the enterprise and treatment towards children were assessed satisfactory.

At the end of the visit, conversations were conducted by the NPG members with administration and staff of the institution basing on national legislation and international standards, the recommendations was given based on the UN Convention of the Child Rights, on the implementation and provision of children's rights and improve their activities and documentation in this area.

The *ad-hoc* visit was held by NPG members in ***Baku City Children's Home No.3.***

The aim of the visit was to investigate conditions of the detention of children living in this institution and the treatment of the employees towards them, as well as situation with provision of the rights of the child. The facility has a total limit of 95 people and actually 91 people were detained, and each group had 20-25 children, divided into 4 groups. 2 trainers were supervised by each teacher and 2 supervisors.

Children at the age of 3 to 18 are detained at the facility. Children aged 18 are registered by their parents and legal representatives and in case of their absence, they are registered in the graduate school in Masazir settlement and provided with the necessary living conditions. It was revealed that the parents of the 7 children were detained and they had no difficulties meeting with their parents.

During the visit, the production and use of the stored food were examined, including the beds, lessons, medical rooms, rooms for leisure, drawing, music rooms, as well as a gym, a dining room and a kitchen were investigated. Conversations with the tutor-teacher were conducted at the facility, and their relationship with children was investigated. On the basis of the choice, the conversations were held with the children in the institution, and they did not complain about treatment and nutrition.

While familiarizing with the state of the medical service to the children, it was defined that there were 1 doctor- pediatrician and 4 nurses at the facility. The work of nurses is based on a shift schedule, which means permanent medical supervision at the facility. During the study, it was found out that the nearby polyclinics and private health care facilities were benefited where from children needed comprehensive medical examination and treatment.

It has also been reported that mobile stomatologic cabinet had been used for stomatological assistance.

It has to be mentioned that modernized equipments, storage conditions, nutrition, food, medical care, walking and other rights, as well as childcare issues were assessed as satisfactory.

During the interview with the administration and staff, they noted that the number of tutor and tutor assistants was not adequate to the number of detainees, and that there was a need for additional staff, including a logopedist staff.

At the end of the visit, the conversations were conducted by the NPG members with administration and staff of the institution basing on national legislation and international standards, the recommendations were given based on the UN Convention of the Child Rights, on the implementation and provision of children's rights and improve their activities and documentation in this field.

The members of the NPG held visits to *Sheki City Children's Home of Mixed Type* under the demands of OPCAT.

The first visit conducted according to investigate information disseminated on Internet resources on the likelihood of A.H's ill-treatment⁴⁷. During the visit the confidential meeting was held with A.H. During the meeting, he said he was not subjected to any ill-treatment by the administration and teachers of the institution, and no visual trauma was observed during the visual examination⁴⁸.

⁴⁷<http://modern.az/az/news/135003#gsc.tab=0>

⁴⁸<http://www.ombudsman.gov.az/az/view/news/716/ombudsmanin-sheki-regional-merkezinin-emekdashlari-sheki-qarishiq-tipli-ushaq-evinde-arashdirma-aparmishlar>

Children residing in the institution were received privately; individual conversations were conducted with them; They did not complain on the treatment by the institution staff members.

The next visit to the facility was held and children residing in the institution were received privately again; individual conversations were conducted with them; treatment, guarantees and living conditions were investigated and also they were explained their rights. Children did not complain about the treatment by the institution staff members.

At the end of the visit, basing on national legislation, international standards, as well as the UN Convention on the Rights of the Child, the NPG of the Commissioner carried out conversations with the administration of the institution on improvement the detention conditions, rendering first aid, treatment issues also gave relevant recommendations.

CHAPTER 3.

Legal Analysis

One of the directions of activity of Ombudsman as an NPM of Azerbaijan is legal analysis of the information obtained in the process of preventive visits and legal awareness events. The theoretical-practical analyze of undertaken activity, as well as of gathered information on this activity, also of received recommendations, or draft legislative acts, summarization of obtained results is carried out in the legal analysis process.

Article 19 of the OPCAT enshrines the right of the NPM to submit proposals and observations with regard existing or draft legislation.

Efficient organization of legal analysis in 2017 year as well was one of the main standing tasks within the frames of the Commissioner's activity as the NPM. As in previous years, in 2017 as well, the recommendations and proposals were worked out for improvement the results of activities realized for ensuring the prevention of torture and existing normative legal base.

Alongside with the reception of persons deprived of liberty during the visits and complaints addressed to the Commissioner, the applications received by the 24/7 Hot-Line on illegal detention in the police and torture are the sources of information for legal analysis.

In 2017, significant actions were taken in relation to elimination of compactness in prisons, inflicting of penalties and avoidance of the practice of isolation of individuals from the society, which are among the key issues specified in the NPG reports of previous years.

On February 10, 2017, the country's President signed the Executive Order on Improving of Penitentiary Work, Humanizing of Penalty Policies Expansion of Application of Alternative Penalties Procedural Obligatory Actions Other Than Isolation from Society.

Executive Order was a new stage in terms of sustainability of reforms for an effective guarantee of human rights.

Being comprehensive in its nature, this document contains the fundamental principles of human rights and freedoms, and strategic, new and comprehensive approaches and significant changes and cooperation in terms of guarantee of the right to freedom. This approach stipulates acceptance of personal dignities as a social value by the government and liability of everyone before the society and other persons in terms of guarantee of the rights and freedoms, and unacceptability of interference in the right to freedom. Covering the rights of arrested or imprisoned persons in terms of extension of human rights and freedoms, the reforms made

further increases the social responsibility of the government. While current challenges and needs for avoidance of imposing of restrictions to the right of freedom of perpetrator and violators of law, humanizing of the relevant criminal prosecution and criminal execution policies, and avoidance of the practice of isolation of individuals from the society gradually are prioritized under the Executive Order, its enforcement also becomes an integral part of government policies.

One of the basic provisions that should be specifically highlighted in the Executive Order is establishment of the Probation Service under the Ministry of Justice of the Republic of Azerbaijan to modernize the work of penitentiary institutions, renew their infrastructures and continue actions for improvement of the administration mechanism; arrange an effective control over execution of the penalties other than isolation from the society; and increase the efficiency of related governance. This institute will engage in an effective control over the execution of alternative penalties other than isolation from the society. It should be mentioned that the Ombudsman repeatedly addressed to probation issues within the framework of her activity under the NPM and this issue was also included in the Recommendations for the 2016 NPM Report and is being currently implemented.

Also, due to its affectivity, the Executive Order will have an impact on giving wide publicity to further restriction of the bases for addition of alternative penalties to imprisonment to the sanctions of the criminal offences in draft laws developed by the Supreme Court, the General Prosecutor's Office and the Ministry of Justice of the Republic of Azerbaijan and improvement of the bases for application of the available alternative penalties; application of conclusive actions other than arrest if the public dangerousness of any offence committed is related to material damage and the damage made is completely compensated; replacement of non-served part of the penalty of imprisonment with a lesser penalty; release on probation from the non-served part of penalties and application of probation institutes more widely; expansion of the cases of application of a conclusive action alternatively to arrest; facilitation of replacement of arrest with conclusive actions which are alternative to arrest; and choosing of the conclusive action of arrest for minor or less serious crimes.

Enabling a satisfactory improvement of court practices in the context of legal reforms in addition to inspection and investigation authorities and reduction of the criminality dynamics, these approaches also prioritize protection of interests of every citizen from illegal intents, prevention of misconduct and corruption cases, and protection of dignity and honor.

During the reception of detainees, as well as carried out investigations it was determined that the representations on choosing the arrest measure with regard the persons accused by the investigation bodies upon the criminal cases covered minors, women, aged persons, as well as ill persons from the standpoint of large number in comparison with other groups of population. The long-term conduction of investigation of criminal cases in the many of cases was the matter in the focus of attention. All these, choosing the restraint method of arrest, several times prolongation of its term cause to overcrowding in the investigation isolator, difficulties regarding the detention conditions, increasing inclination among juveniles to criminal behavior and spending of sufficient state amounts. This puts forward wider application of alternative restraint measures.

Therefore, application of the Executive Order effectively will also contribute to Juvenile Justice Reforms in the country, addressed to juveniles. Taking of Juvenile Justice Principles into consideration in the work process is also important in terms of implementation of a range of recommendations made by the UN Committee on Children's Rights of the Sub-Committee on Prevention of Torture and other international organizations to the country.

These actions will also serve to realization of the rights of crime victims and the government's interests, in addition to reduction of the work load of the investigation-court system and overloading of prisons.

Causes of crimes should be carefully and comprehensively analyzed and comprehensive criminological researches should be conducted in order to prevent the cases motivating crimes among individuals, which is very important in terms of prevention of criminality. In the implementation process of preventive actions, training of social workers and psychologists and their involvement into this activity may also be useful.

The initiative of drafting of laws for decriminalization of crimes, in particular crimes in the economic activity sphere is also a successful step for humanizing of the penal policies of Azerbaijan.

Today, offences not addressed to the life and health of individuals and the foundations of the governmental structure and causing to violation of economic and property rights in the globalizing world leaves the influential circle of the penal law and enters the influential and regulation circles of the civil law and administrative law. The acts determined and specified as a crime in the penal laws and regulations of specific countries are removed from such laws and regulations, which creates new tendencies in the criminal execution practices.

Practice shows that the violations committed in the economic activity sphere while legal reforms are not considered a crime if the damage made is

indemnified or individuals committing such acts are mostly charged to liability in the civil order.

While this tendency is due to humanization of the penal policies on one hand, it may also be explained with attempts for activation of the economic and financial lives of specific countries from the other side. Such decriminalization in the context of application of such actions as financial amnesty may also be taken as a positive initiative from the economic perspective. A complete indemnification of any loss made and lost profits as a result of crimes and committing of such a violation first time may be considered as an adequate ground for exemption of this person from criminal liability and generally not considering this act a crime. Inclusion of the issues of exemption from the criminal liability in law if the made loss is indemnified not only until the court hearing, but also in the period after issuance of the court ruling may considerably contribute to the reforms being made.

When noting the court practice here, the issue of application of arrest and imprisonment as a last resort and proportionality of penalties to committed crimes are among the factors requiring a fundamental approach. In addition to these, being of imposing of penalties as social works generally formal was also accompanied with some misconduct. The Executive Order includes adoption of a draft law setting forth arrangement of an accurate registration of the persons serving to their penalties in the form of social works, prevention of evasion from these works and keeping of an accurate registration of the work time, and liability for officials for enabling penalized persons to evade from serving to their penalties in the form of social works, which is important in terms of filling of arising gaps. Timely preparation and regularly updating and submission of of necessary lists of workplaces by local executive authorities are also among the important issues that need attention.

Also, in draft laws to be developed by relevant authorities to humanize the penal policies, review of the penalty of restriction of freedom, specified in the criminal law previously, and updating of this penalty on the basis of international practices and editing it may also significantly contribute to improvement of the country's practices in terms of alternative penalty reforms.

The mentioned important Executive Order also provides wide opportunities to reach international standards, including the European Penitentiary Rules in terms of reforms in the national legislation on the basis of comprehensive legal reforms and further improvement of protection of the rights, and the detention conditions of those detained penitentiary facilities.

An active participation of the Ombudsman in these processes as an NPM enabled making of amendments to the Criminal Code, Criminal Procedural Code and Penal Execution Code of the Republic of Azerbaijan and to

decisions of central executive authorities in the previous years, and application of them in practice, in addition to adoption of new laws and regulations.

Amendments made to the criminal legislation by the Law on Making of Amendments to the Criminal Code of the Republic of Azerbaijan, dated October 20, 2017, of the Republic of Azerbaijan in compliance with the obligations and provisions specified in this Executive Order have a significant social importance.

About 300 amendments have been made to this Code; clauses predicting criminal liability for 15 crimes were removed from the Code; exemption from the criminal liability is set forth for 22 crimes upon reconciliation with the crime victim and indemnification of the loss made, for 26 crimes upon indemnification of the loss made and making of payment to the state budget, for in 1 or 2 fold of the loss made, and for 2 crimes upon execution of the court ruling or concluding a labor agreement. For 1 crime, exemption of persons suffering from drug dependence from criminal liability is predicted after treatment of these persons by applying mandatory medical remedies. Also, alternative penalties to imprisonment were included in the sanctions of 158 crimes in the code, and 18 criminal acts were transferred from the category of less serious crimes to the category of crimes not causing any serious public danger due to mitigation of the penalty of imprisonment for 36 crimes, 4 criminal acts were transferred from the category of serious crimes to the category of less serious crimes, and 1 criminal act was transferred from the category of specially serious crimes to the category of serious crimes.

And the penalty of restriction of freedom, mentioned in the proposals of the Ombudsman made within the framework of the NPM activity and stipulating detention of offenders (charged persons) under control in their places of residence without full isolation of them from the society was also included in the Criminal Code as an alternative penalty in a new edition.

Restriction of freedom, which is a new penalty type dissimilarly to the penalty type specified in the criminal code, previously, predicts detention of the charged persons under control in their places of residence without full isolation of them from the society. In this case, court restricts movement of the persons imposed to the penalty of restriction of freedom from their places of residence (fully or in some hours of a day) or some territorial limits.

From the proposals of the Ombudsman, specified in her annual reports, and her applications to relevant authorities, 'prevention of imprisonment with inclusion of the penalty of restriction of freedom' in Clause 52-1 of the Criminal Code; 'exemption from criminal liability upon reconciliation with the victim' in Clause 73; 'exemption from the criminal liability for crimes against property' in Clause 73-1; 'exemption from the criminal liability in

relation to the disease of drug addiction' in Clause 74-1; and 'deferral of serving of pregnant women or women with a child under 14 as well as men growing their children under 14 lonely to their sentence until the child reaches 14 (this figure was 8 in the previous edition)' in Clause 79; were mainly related to exemption from liability for crimes in economic activity with a mass nature and in relation to drug addiction disease, and came into force as of December 1, 2017.

In order to prevent application of restriction in relation of the right to freedom of offenders or violators of law, cooperation with state authorities and civil society institutes on relevant pillars was performed, and about 50 proposals of the Ombudsman on the relevant sections, in particular those related to exemption from criminal liability, were taken into consideration in making amendments to the Criminal Code.

As a prohibiting norm, such provisions as unacceptance of application of violation, intimidation, deceit, torture and other cruel, inhuman or degrading acts were added to the Clauses of the Criminal Procedural Code, which are related to guaranteeing of the right to freedom and the right to privacy, collection of evidences, and conduction of investigation during criminal trial action on the detention facilities and criminal cases.

Considering that a vast number of selection of the conclusive action of arrest on suspects in criminal cases by investigation authorities, a long duration of investigation of criminal cases, failure of arrested persons, in particular adolescents to see their investigators for a long time, and prolongation of the arrest period lead to increase in compactness in investigation isolators, challenges related to detention conditions, and inclination to criminal behaviors among adolescents, the Ombudsman offered application of alternative conclusive actions widely.

It should be noted that these proposals and recommendations were drafted and raised on the basis of the position of the CAT.

The Ombudsman's proposals as the NPM were related to establishment and application of a probation service and were approved by considering their addition to the Penal Execution Code in Clause 15-1.

By the way, in order to ensure execution of the requirements if the Executive Order, the Rules for Determination of the Types of Works into Which Individuals Imposed to the Penalty of Social Works the Places to Conduct Such Works was approved by Decree No 438 of October 17, 2017 of the Cabinet of Ministers of the Republic of Azerbaijan. According to this document, the penalty of social works include implementation of unpaid socially useful works in favor of the society in free times of the individuals imposed to this penalty from their key job or education.

In the annual reports of the Ombudsman and her applications addressed to relevant state authorities, proposals for restoration of manufacturing sites existed at detention facilities and establishment of new manufacturing sites equipped with modern equipment were made.

The Ombudsman considers that the mentioned actions may enable improvement of prisoners, their professional training and ultimately, their socialization, and payment of their debts arising from civil claims, including alimonies, and material support of them to their families.

Although submission of an adequate warrant through the lawyers of arrested and detained persons in 2017 at police bodies, posing of obstructions for their meetings were observed in some cases. Among these, the Main against Organized Crime Department, Sumgayit City Police Office and Shirvan City Police Office may be noted⁴⁹.

According to the Ombudsman, in general, there are still some faults in provision of imprisoned persons with a quality legal aid. Applications lodged to the Ombudsman in relation to negligent attitude of lawyers funded from the government budget to their duties in a number of instances provide grounds to say this. In this regard, the processes observed with accompaniment of reforms in the work of the Bar Association of the Republic of Azerbaijan at the end of the previous year are appreciated. The Ombudsman thinks that the number of lawyers also important and there is a need to increase this number in the country, particular in the regions.

Faults related to keeping of records and to logbooks in practice at temporary detentions (TDP's) and police officers are still faced quite a bit. *CPT considers that if united registration covering all actions taken on registration of each arrested individual, all aspects of detention and on arrested individuals is kept, key remedies for individuals arrested by police would be strengthened and in its turn, the work of police would be significantly facilitated*⁵⁰.

Among police offices with observed faults in keeping records, those of Oguz, Khachmaz, Gazakh, Tovuz, Akstafa and Yevlakh regions may be mentioned.

Also, it is important to provide individuals detained in TDP with qualified medicines if needed in the context of their right to health. Medicines with expired dates are still met in TDP in some cases.

⁴⁹<http://gozetc.az/article/index/8092>

⁵⁰CPT,GR”,paraqraf 40

It is known that applications lodged by individuals detained in prisons, investigation isolators and temporary detentions places shall be sent to the Ombudsman within 24 hours without any censure⁵¹.

Similar provisions are also set forth in the Law on Ensuring Rights and Freedoms of Individuals at Detention Institutions⁵² and the Penal Execution Code of the Republic of Azerbaijan⁵³ as well as Internal Discipline Rules of related institutions.

However, some problems in realization of the rights of imprisoned persons their right to communication at penitentiary facilities was also observed in 2017. Such cases are faced both at prisons and investigation isolators.

Individuals to their lawyers, authorities controlling over the work of detention facilities and the Ombudsman, and replies obtained from these authorities was violated by censoring them. These issues were raised before the Ministry of Justice and in the reply letter, it was stated that letters sent to the names of prisoners and the letters sent by them were opened by the administration of the detention facilities in order to prevent transfer of prohibited items, and the issue was taken under control.

It should be noted that faults were also observed in sending of letters receiving to the address of the detained or arrested persons who left the detention place to the place of residence of the detained or arrested persons within maximum one day by the administrations of the detention facilities and those issued were raised before the detention facilities.

Although significant work has been done for improvement of medical and sanitary conditions of prisoners at detention facilities and realization of their right to protection of health, there are still gaps. There is a formal nature of daily control of the health of prisoners at detention facilities and control over the sanitary and epidemiological conditions by the medical staff at the detention facilities, making of corrections in the records kept in relevant logbooks and incompliance of the records of application of special aids with the relevant records kept in the logbooks of the detention facilities.

Creating of obstacles for transfer to treatment institutions in some cases, resulting complications from non-operative work in medical examination and treatment, inadequate attitudes towards the prisoners refusing to eat, transferred to penal isolators or to whom special aids were applied were also observed.

⁵¹“The Constituion Law on the Commissioner for Human Rigths (Ombudsman) of the Republic of Azerbaijan (28.12.2001), clause 8.5

⁵²Law on Guaranteeing of Rights & Freedoms of Individuals at Detention Facilities of the Republic of Azerbaijan (22.05.2012), Clause 18

⁵³Penal Execution Code of Republic of Azerbaijan (14.07.2000), Clauses 83.2 and 83.5.

There is a need to accelerate construction works of a new institution to arrange the detention conditions of, in particular, those life sentenced in compliance with international standards and involve them in labor and education as well as enable them to engage in sport. The importance of increasing of attention to conduction of the construction works at the penitentiary complexes constructed in Gandja and Lenkeran Cities, detention facilities for women prisoners in Zabrat settlement and the construction works of the new detention facility in Umbakisettlement should also be noted. This issue has been already raised before the Ministry of Justice several times.

Some problems in relation to the labor activity of the prisoners at detention facilities are still remaining. The Ombudsman thinks that involvement of prisoners at detention facilities in manufacturing should be considered in the aspect of Cooperative Social Responsibility. Entrepreneurs engaging in such activity should be stimulated. *The European Penitentiary Rules also states that labor shall be considered as a positive component of the internal regime at detention facilities and it shall never be used as punishment. The administrations of detention facilities shall provide adequate conditions for an efficient labor. The nature of jobs to be offered to prisoners shall enable the prisoners to maintain and improve their ability to gain income to survive after getting freedom. Also, the prisoners shall be provided with a fair salary for their labor in any case.*⁵⁴

As the Ombudsman mentioned in her previous reports, there should be specialized institutions and programs for adaptation of former prisoners to the society. The establishment of the Social Adaptation Center for individuals exempted from serving their sentences at Penitentiary institutions under the State Social Security Fund in 2017 should be appreciated in this respect.⁵⁵

Stigmatization should also be avoided in employment of former prisoners. In some cases, provision of former prisoners with jobs is not enabled in the society and even it is criticized, which surely makes the danger of their return to crimes actual. For instance, Baku Transportation Agency sent an inquiry for conduction of investigation on 3008 drivers to the Ministry of Internal Affairs, Ministry of Health and other authorities. As a result of the inquiry, it was detected that 461 drivers had imprisonment.⁵⁶

So, emphasizing of the imprisonment fact is regretful and surprising the Ombudsman thinks that the nature of the committed crimes may be considered in such cases.

In the practice of some foreign countries, special foreign language courses are organized for prisoners detained at penitentiary institutions and those

⁵⁴European Penitentiary Rules, Clause 26

⁵⁵http://www.xezerxeber.az/son_x%C9%99b%C9%99r/178520.html

⁵⁶ <http://apa.tv/video/45913>

completing these courses are awarded with certificates. In Portugal, such courses give a significant result for solution of the employment problem of such former prisoners. The Ombudsman suggests considering the option of using the mentioned practice.

Penitentiary institutions should try to provide all prisoners with maximum wide opportunities to use education/training programs meeting their individual demands and relevant standards. Education/training of young prisoners and those in special need should be paid a special attention at:

Education/training of prisoners should be: (a) integrated into the nationwide education/training and vocational training system to enable them to continue their education and vocational training after getting freedom; (b) implemented under guardianship of education/training facilities outside.⁵⁷

Furthermore, there is a need to implement improvement works at some psychiatric institutions under the Ministry of Health. In addition to infrastructure problems at Psychiatric Hospitals of the Ministry of Health, located in Ganja and Sheki cities, improvement of the work of the personnel of these facilities are also among the key needs. There is a need to expand application of UN Principles for Protection of Persons with Mental Illness & Improvement of Mental Health Care, European Minimum Standards for Accommodation Conditions for and Treatment of Persons Mental Illness and recommendations of the SPT and the CPT at psychiatric institutions. The Ombudsman thinks that the provisions of the mentioned documents should be considered a guiding start and pillar in parallel to implementation to the national legislation.

Also, reforms performed in the system of the Ministry of Education, projects and programs implemented to guarantee and realize the education rights of citizens, raised initiatives, capital restoration and reconstruction of education facilities to improve the accommodation conditions, and continuous works to restore the logistics of these facilities are also observed.

We are of the opinion that reorganization of those institutions the activity of which is regulated by the legislation is rather necessary. The rules of detention, education and upbringing of juveniles should be improved considering their ages, as well as psychological status and health, also the environment for psychological correction basing on the individual social – psychological diagnosis of the persons committed delinquency should be enhanced as well; organization of sanitation educational measures system, socially useful employment, efficient day assignment including leisure time of pupils, maximal protection of pupils from negative cases should be undoubtedly ensured.

⁵⁷European Penitentiary Rules, Clause 28

CHAPTER 4.

Legal Awareness

The preamble of the OPCAT states 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. One of the directions of the Azerbaijani NPM is the organization of legal awareness work addressed at the persons detained in the places which a person cannot leave on his own will and service personnel working with them.

In 2017, the meetings, seminars and trainings based on national and international legislation provisions, the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and other international standards were organized in children's houses and boarding schools, different state agencies, Scientific-Education Centers of Armed Forces, the Academies of law-enforcement bodies, military units, penitentiary institutions. The scheduled and continuous trainings carried out upon national and international standards assume high importance from the standpoint of popularization of the NPM, support to its activity, capacity building and legal awareness, as well as implementation of recommendations of this kind.

During meetings and receptions were held with police, prison authorities, migration agencies, education, social service and psychiatric institutions the legal awareness work was conducted with them both in Baku and in other cities and regions of the country, the importance of special attention to ensuring human rights and freedoms was brought to point, and the activities carried out by the institution in order to implement the "National Preventive Mechanism for Prevention of Torture".

Along with the above mentioned, the cooperation in this field was discussed, the legal publications, manuals, the posters on hot-line, learning of these materials and their use in trainings, practical application were recommended.

Within the framework of visits to enterprises where detainees cannot leave their own will, the legal awareness work was conducted with administration and responsible employees of enterprises, the given recommendations were substantiated about national and international legislation, substantial improvements in medical services and documentation, and the elimination of deficiencies.

The Commissioner considers that, the learning process of the demands of the UN Convention against Torture and other Cruel, Inhuman or

Degrading Treatment or Punishment and its Optional Protocol should be continued by law-enforcement bodies and other relevant authorities.

Within the framework of legal awareness activities on February 10, 2017, the Commissioner made public discussions on the implementation of the Presidential Decree on "Improving the application of alternative penalties and procedural compulsory measures not related to the improvement of the activity in the penitentiary sphere, humanization of the penal policy and isolation from society".

Representatives of *MilliMejlis*, court judges, representatives of relevant government agencies, including law enforcement agencies, international organizations, civil society institutions, NGOs and mass media took part in the event, the tasks arising from the document, the joint cooperation, were discussed⁵⁸.

Within the mandate of the Commissioner as a National Preventive Mechanism, a wide range of activities have been carried out, in cooperation with relevant state bodies responsible for the implementation of the tasks arising from the requirements of the Order.

In 2017 legal awareness trainings were continued in the regions jointly with the UNICEF, Police Academy and the Academy of Justice. The NPG members participated as experts in the trainings on awareness and capacity building on the topics "Juvenile Justice and Torture Prevention" aimed at judges, staff of prosecutor's offices, police, justice and local executive power bodies. The lectures on national legislation and international standards on torture prevention were delivered; wide discussions upon the topic and legal awareness work were carried out.

The situation with assessment of influence of reforms in juvenile justice system at children in conflict with law, new approaches in activity of the Commissions on juveniles' issues and protection of their rights under the local executive power bodies, positive practices of foreign countries in this field, existing difficulties were among topics of discussions.

It has been widely informed activities of the Commissioner as a National Preventive Mechanism, about initiatives, activities and preventive measures, as well as the existing challenges and measures needed to support the juvenile justice system, the improvement of national legislation and experience in this area, as well as legal reforms in general.

The discussions over increasing the awareness of police, prosecutor, judicial and other authorized bodies for making just decisions, the need in improvement of the measures carried out regarding juveniles displaying

⁵⁸<http://xalqqazeti.com/az/news/news/82430>

behavior contradicting with law and detained ones, their social adaptation were carried out during the events.

Information were given on national and international practice, normative legal acts, preventive measures to be taken under the UN Convention on the Rights of the Child, Beijing Rules and Riyadh's Guidelines, the importance of the precedential decree on February 10, 2017 were emphasized, the prevention of the use of restrictions on the right to freedom of movement by juvenile offenders, humanization of the criminal prosecution and penal execution in this direction, it was touched upon existing experience in the field of the abandonment of the person's isolation from society and were discussed issues in the context of live debates.

It has to be mentioned that, effective implementation of the Decree will also contribute to the Juvenile Justice Reform in the country in relation to minors.

Considering the Juvenile Justice Principles in the course of action this is also important from the point of view of implementing a number of recommendations to the country given by the UN Committee on the Rights of the Child, the Subcommittee on the Prevention of Torture and other international organizations.

Along with continuing such legal awareness measures were undertaken at the initiative of the Commissioner, in cooperation with the UNICEF, members of the NPG and the regional centers of the Commissioner continued their work in the regions of the Republic, has contributed to the effective protection and promotion of children's rights by covering extensive coverage of the employees of the courts, police, education, healthcare, local executive authorities operating in the area of child rights.

On the initiative of the Commissioner for Human Rights, the Children's Rights Month Campaign was traditionally held in our country from October 20 to November 20. In the framework of this month awareness events were held in Baku and regions, including the Penitentiary Service of the Ministry of Justice, and many juveniles were involved in legal awareness raising activities.

The events continued in a live discussions condition, many questions of children, especially questions concerning new changes to criminal law within the framework of the legal reforms carried out under the relevant Order of the President of the Republic of Azerbaijan were replied, their rights and competences of the Commissioner were explained and legal advice was given on the issues they raised.

At the end, these institutions were provided with posters on Ombudsman's legal education, books on child rights and Hotline Service numbers of the Commissioner.

The efficient cooperation relations were continued with the Academy of Justice of the MJ in the field of legal awareness, as well as capacity building of persons admitted to service on different directions.

The lectures on the topic “The activity of the Ombudsman in human rights protection and as the National Preventive Mechanism” were delivered by the NPG members during the compulsory training courses held in the Academy of Justice with regard the graduation to the vocational activity of the students admitted to service for the first time in Penitentiary Service, Judicial Expertise Center and Head Medical Department.

The activities of the Ombudsman as the institution acting as an NPM to ensure the implementation of the UN OPCAT, conducted visits at the country to institutions which persons cannot leave at their own will, defined deficiencies, recommendations on the elimination and information on their implementation status, as well as examples of successful approach to handling and detention conditions were provided to the audience by bringing examples from national and foreign countries, as well as from the experience of SPT, CPT, APT and other institutions, international organizations.

Document of the UN High Commissioner for Human Rights Istanbul Protocol about the effective investigation of the types of ill-treatment and penalties, the CPT recommendations and the standards set out in the CPT General Reports, as well as relevant national legislation, were taught on the basis of the lectures⁵⁹.

Alongside with the mentioned, the attention was paid to the capacity building of the members of the NPG within the framework of the activity of the Commissioner as an NPM. Thus, within the framework of the EU European Neighborhood and Partnership Instrument, the Commissioner carried out the Twinning Project in partnership with Germany, Greece, Portugal and Poland.

Twinning project titled “Support to strengthening the capacities of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan” be continued for 24 months not only covered four components (strengthening the activity of the Ombudsman Institution as an NPM, improving the institutional capacities of the Ombudsman Office in management information system, child rights, rights of persons with disabilities and the elderly, strengthening the capacities of the Ombudsman Office in implementation of the Law of the Republic of Azerbaijan on Access to Information, conduction of trainings on efficient management for the staff of the Office and regional centers) but also ensured expanded

⁵⁹<http://ombudsman.gov.az/az/view/news/811/ombudsman-elmira-suleymanova-edliyye-akademiyasindahakimliye-namizedler-uchun-muhazire-oxumushdur>

participation of staff of the Office and NPG members in the trainings conducted with involvement of foreign experts.

The trainings, meetings and experience exchange with participation of well-known experts of the NPM Network carried out within this ongoing program further strengthened the potential capacities of the Azerbaijani NPM as well, served to increasing the knowledge and practical skills of the Group members.

Within framework of activity is attention paid to increasing practical knowledge and skills of new members of the NPG, as well as the experts cooperating in this sphere, and of civil society within the frames of the activities.

CHAPTER 5.

PUBLIC RELATIONS AND INTERNATIONAL COOPERATION

Considering the positive experience of previous years, the Commissioner continued the efficient cooperation with local, regional and international organizations according to the directions of activity.

In 2017, exchange of information and experience with the state, local civil society organizations, as well as mass media, regional and international organizations, including foreign NPMs, ensuring mutual participation in conducted events, as well as organization of joint events further improved the activity in this direction.

Within the reviewed period, both national and international organizations were regularly and comprehensively informed about the activity of the Azerbaijani NPM.

In general, during 2017, 92 media announcements in total were issued, including 67 about visits and 25 about other activities.

Totally, within 2009-2017 years 880 informational press releases were disseminated in mass media with regard the NPM activity.

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

At the same time, the appeals and the other information addressed to the Ombudsman, including those received by 24-hour hotline, from NGOs, human rights defenders, mass media, or obtained from internet recourses or facts ascertained through direct inspection on the spot or received by the state authorities given the instructions to investigate, collected information and materials, as well as relative and quantitative indicators of the complaints were used during the visits.

Moreover, the Commissioner's representatives visited on a regular basis the persons, whose names were repeatedly indicated in press, including those detained or persecuted. The information related to the monitoring was released through mass media and placed on the official website of the Commissioner.

In 2017, the Azerbaijani NPM further 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 torture.

From the beginning of her activity, the Commissioner closely cooperates with the civil society institutions. From the first years of activity at her initiative the Council of Independent Experts that became an innovation in the country experience and united numerous civil society institutions was created at the Office and this council functions at present. As mentioned previously, involvement of civil society members and participation of experts is regularly ensured during the visits and legal awareness events within the framework of the NPM activity, during the meetings held with participation of relevant state agencies, discussions on legislation, in the process of compilation of appropriate reports.

Within this framework of activity, close cooperation is built with the Public Committee under the MJ composed of the civil society members. The members of the Committee involved as experts closely participate in the activity of the NPM.

The head of the NPG of the Ombudsman was a participant in relevant events conducted during the reviewed period as a member of Public Committee Election Commission under the Ministry of Justice of the Republic of Azerbaijan.

International cooperation. Further expanding of international relations in 2017, conducted exchanges of experience and opinions created wide space for efficient realization of the Azerbaijani NPM's activity.

The Commissioner as an NPM, closely cooperates with the UN and its Treaty bodies, including CAT, SPT, as well as CPT, COE, EU, OSCE, APT and other international institutions, as well as foreign NPMs, and shares her experience in the concerned field. Organization of efficient meetings, holding joint events and participation of the Commissioner and the NPG in international events and exchange of experiences in the field of prevention of torture can be shown as the directions of international relations of the Commissioner as the NPM.

This cooperation also includes various trainings for advancement of the NPM activity and increasing the professional capacity of the NPG members organized in cooperation with the UN agencies, as well as improving the activities of the NPM within the Twining Project which is running in partnership with Germany and Poland with EU support, meetings and exchange of experience with participation of CPT, APT representatives and other NPM experts.

Within the framework of NPM, the Commissioner received a delegation led by Mykola Gnatovsky, President of the CPT, within the framework of his visit to Azerbaijan in 2018⁶⁰.

⁶⁰<http://sia.az/az/news/social/643031.html>

The guests were informed about the establishment of the relevant structural unit, as well as creation of the NPG for the organization of systematic activities, the planned and *ad-hoc* visits to the places where the detainees were unable to leave places with their own will.

It was noted that during the visits detained persons were confidentially received, their applications are accepted; relevant recommendations were given to the administration of the enterprise, in addition, after each visit, the relevant bodies were consulted, recommendations are made, the results of the meetings were analyzed and published in the form of a report.

It was added that the development of the Ombudsman's activity as NPM within the framework of the Twinning Project was considered as a specific component, and CPT Representatives were involved as experts in the preparation of the NPM Statutes and Instructions.

The questions of the guests were thoroughly answered about the Ombudsman's NPM mandate, the NPG's activities, its content, the format of visits and other issues.

CPT President MykolaGnatovsky thanked the Commissioner for detailed information, praised the exchange of views, NPM's performance, and highlighted the importance of cooperation between the Ombudsman institution and the CPT.

Officials of diplomatic corps of foreign countries were also accepted by the Commissioner for Human Rights of the Republic of Azerbaijan and answered their questions regarding the activities of the Azerbaijan's NPM.

During the meeting with the Ambassador of the United States of America, the Ombudsman noted that the Ombudsman's institution, acting as an effective legal mechanism in Azerbaijan, has established effective cooperation with governmental institutions and civil society, NGO's and international organizations in the field of human rights⁶¹.

It was highlighted that the National Action Program on Raising the Effectiveness of the Human Rights and Freedoms of the Republic of Azerbaijan, approved by decree of the President of the Republic of Azerbaijan on 27 December, 2011, provides great opportunities for the implementation of this document in every city and region of the republic and public hearings were held by the Ombudsman in each city and region of the republic in connection with the execution of this document.

With the participation of local executive authorities and law enforcement agencies, municipalities, non-governmental organizations, local communities, the general public and media representatives, the Commissioner were received complainants privately, measures were taken to

⁶¹<https://www.amerikaninsesi.org/a/insan-huquqlari/3921699.html>

address the issues raised, as well as visits were held to all police departments.

It was mentioned that as a National Preventive Mechanism (NPM), the visit was conducted to the places where detainees cannot leave at their own will, including visits to penitentiary institutions, temporary detention places, as well as social facilities, boarding houses for elderly and disabled people, psychiatric hospitals and immediately after each visit, the information regarding this issue was made to the press, and that the appeals were sent to the relevant bodies.

The questions of the guests were thoroughly answered about the situation in penitentiary institutions, the provision of the rights of detainees, including health care, the work done about received persons and their work in the direction of effective provision of their applications.

A consultative meeting of the National Preventive Mechanisms in Europe and other regions was held in Strasbourg, France, in co-organized by the Council of Europe and the OSCE Office for Democratic Institutions and Human Rights (ODIHR) in 2017.

At the event, which covers May 30 - June 1, the presentations made by independent experts of the Council of Europe, the OSCE, the CAT, SPT, CPT, APT Global Alliance of National Human Rights Institutions (GANHRI), the European Network of National Human Rights Institutions (ENNHR) were listened, discussions were held at the sessions on discussed topics⁶².

It should be noted that the relevant Order of the President of the Republic of Azerbaijan Mr. Ilham Aliyev on February 10 2017, will contribute on prevention of the application of restrictions on freedom of movement of migrants between persons who have committed a crime, humanization of criminal prosecution and penal execution in this direction, the development of existing experience in the field of gradually abandoning the practice of isolation from the society will be the main objective in this area.

During the visit, the Ombudsman's publications, annual reports, copies of the Commissioner's report on the activities of the National Preventive Mechanism have been given to the Council of Europe.

Representative of the Council of Europe Ivan Koedjnikov, Ildiko Nemeth-Salacz and Deputy Head of the Baku Office of the organization Joel Mermet, were received by the Commissioner as part of the National Preventive Mechanism.

⁶²<http://www.ombudsman.gov.az/az/view/news/707/ombudsmanin-numayendes-i-avropa-shurasinda-kechirilmish-tedbirde-ishtirak-etmishdir>

During the meeting, the information was given on the reforms implemented in the field of human rights protection and the activities of the Ombudsman; the cooperation with the Council of Europe in the area of human rights and the joint projects were discussed.

It was mentioned that in order to ensure the effective protection of human rights, cooperation with government agencies, NGOs, civil society, mass media and communities has been established, regional centers of the Commissioner, Hotline Services for responding immediately to complaints were created, as well as specialized advisors in various fields are operating.

It was emphasized that as a component of the Council of Europe's Action Plan for the Country in 2014-2016, the Ombudsman was also involved as a partner in the project entitled "Support to Penitentiary Service Reforms in Azerbaijan" and the representative of the Commissioner was represented as the project coordinator. It was emphasized that work on the development of management in the penitentiary system and enhancing the professionalism of medical services was carried out.

The detailed information was given to the guests about the determination of the Ombudsman as an NPM by the relevant Presidential Decree on ensuring the implementation of the OPCAT, establishment of the relevant department and the NPG, the visits conducted by NPG members to the penitentiary institutions, temporary detention facilities, places of detention for migrants as well as social facilities, boarding houses for elderly and disabled people, about the given recommendations and their implementation status.

The detailed information was given to the guests on execution of proposals and recommendations of the Ombudsman on human rights provision, as well as activities in the field of elimination of corruption, the appointment of a specialized consultant on the relevant field, a close involvement of this person as a member of the working group of to the process of preparation of normative legal acts, state programs in national action plans on legislation under the Commission on Combating Corruption, about legal awareness which was held in this direction.

A meeting with the UNICEF consultant Sara Cameron Macbi was held within the framework of the NPM's activity.

The detailed information was given to the guest about the activity of institution on protection of child rights, the investigation of the complaints sent by children, awareness on this field, improvement of national legislation, conducted visits to juvenile detention places where they live and stay and international cooperation.

Within the initiative of the Ombudsman jointly with the UNICEF, the draft law of the Republic of Azerbaijan "The right of child to protection

from corporal punishment" was submitted to the MilliMejlis, the continuation of the lobbying activity of the Commissioners in this direction, protection and promotion of children's rights, proposals for the establishment of child rights centers were discussed during the meeting.

The detailed information was given about the Commissioner's cooperation with the UNICEF in combating violence against children, including the role of NPM, work carried out to support legal reforms in the country, preventive measures, given proposals and recommendations to the relevant bodies to improve national legislation and experience in this field.

The activities of the Commissioner on the Protection of the rights of minors which is operating at local executive authorities and the existing difficulties were also discussed at the meeting.

The next meeting within the framework of NPM was held with Cesar Florin Preda, co-rapporteur of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe (PACE) on Azerbaijan.

Regarding to questions of the guest, the detailed information about visits conducted to the detention places which detainees cannot leave their own will, including visits to penitentiary institutions, recommendations based on national and international standards and their implementation status, received persons and work done in the direction of effective provision of their applications, information of effective collaboration were given.

Contributions about the basis of a number of proposals made by the Commissioner in respect of the effective provision of human rights to state bodies, reforms carried out at the enterprises where persons cannot leave their own will, treatment issues, and improvement of detention conditions, effective provision of appeals, as well as contribution to the improvement of legislation were mentioned during the meeting.

In 2017, within the framework of international cooperation, NPG members participated in the exchange of experience within the framework of the Twinning Project of the European Union and the next visit was to Portugal which is the project partner⁶³.

An official meeting was held with the Portuguese Ombudsman and its staff at the first day of the visit and the activities carried out by the relevant institutions of both countries in the field of the provision and protection of human rights, positive work experience and future collaboration perspectives were discussed, fruitful discussions was carried out.

The Portuguese Ombudsman highly appreciated the activity of his Azerbaijani colleagues and praised his work on human rights and effective international cooperation.

⁶³https://azertag.az/xeber/Ombudsman_Aparatinin_emekdaslari_Portuqaliyada_seferde_olublar-1105487

CDs and literature on the truths and rich culture of Azerbaijan, annual reports of the Commissioner and legal publications prepared by the Office were presented to the Ombudsman of Portugal.

Within the framework of the visit, the National Center for Integration of Migrants was visited on the spot; measures on acceptance of migrants and their integration, NPM's mandate in Portugal were learned.

The members of NPG also visited a prison in Lisbon, familiarized with the situation in the enterprise, administration and employees of the enterprise, as well as conversations were held with prisoners, exchange of experience was conducted in terms of protection of prisoners' rights.

Within the framework of the activity of the Ombudsman of Azerbaijan as a National Preventive Mechanism, conducted visits to the enterprises, important information's provided on this issues, was met with interest by the staffs of the enterprise.

Many social programs addressed to the detainees were acquainted with various social groups, including welfare, social support programs for migrants, and positive experiences in many areas.

It should be noted that, in terms of international cooperation of NPM, the visit to Portugal was fruitful in terms of mutual cooperation, exchange of views and experience.

CHAPTER 6.

OUTCOMES AND RECOMMENDATIONS

As a result of submission of numerous proposals and recommendations during the activity of Ombudsman under the demands of OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan under demand of OPCAT and realized in the reviewed period, the attitude of law enforcement bodies, punishment execution structures and other state agencies and officials to the essence of human rights and their ensuring has been changed positively, the legal thought was formed in a new content, the steps were undertaken in the direction of improvement the administration.

The Commissioner builds her activity following in compliance with the Paris Principles:

- promotes bringing the national legislation acts and practices in compliance with international documents on human rights to which the country is a party to;

- promotes adhering of the country to international documents and implementation of international norms in the national legislation, as well as carrying out relevant measures;

- assists in working out the reports on the activities realized under the international conventions to be submitted to the UN bodies and regional institutions, expresses her reference regarding these report in compliance with the principle of independency, as well as submits additional report.

From this standpoint more than half of proposals and recommendations presented in the previous reports on the activity of the Commissioner as the NPM were solved or directed for implementation. The present report also enshrines the recommendations among the previous ones but still waiting for their solution, as well as the new proposals and recommendations coming up within the activity process.

With the aim of analysis of the results of the activity carried out as the NPM in 2017, efficient protection of detainees' rights, the Commissioner proposes the following:

Regarding the normative legal acts:

1. Approval of the Charter of the Social Adaptation Center and the Statutes of Social Service Institutions for the persons released from penal institutions at the State Social Protection Fund (*Cabinet of Ministers*);

2. Approval of the temporary Statute on "Detention stations for administratively arrested persons" and "Internal Disciplinary Rules in Penitentiary Institutions" (*Cabinet of Ministers*);

3. Adoption of the Probation Service and the Law of the Republic of Azerbaijan on "Probation" or "Probation Service" (*Milli Mejlis*); in order to effectively control the execution of punishments not related to isolation from society and to improve the efficiency of governance in this area;

4. Inclusion the norm of the Law of the Republic of Azerbaijan "On the Rights and Freedoms of Persons Detained in Detention Places" for the short-term stay within the country beyond the boundaries of the detention facility (related to serious illness that threatens the death or life of their close relatives) (*Milli Mejlis*);

5. Inclusion the norm to the legislation related to stimulation of employers and their tax exemptions for former labor prisoners (*Milli Mejlis*);

6. Amendment of the Criminal Code on the appointment of a sentence of imprisonment to a juvenile for not more than eight years (*Milli Mejlis*);

7. Bringing in compliance with international norms of paragraphs 17 and 21 of the addition No.4 to the "Charter of garrison and guard services of Armed Forces of the Azerbaijan Republic" (*Milli Mejlis, Cabinet of Ministers*).

Recommendations to the Ministry of Internal Affairs

1. Approval of Regulations on the Organization of Police Children's Rooms;

2. Increasing the control over moving of persons detained in the TDPs and arrested persons to investigation isolator within 24 hours as provided by the legislation, involvement of medical personnel and conduction of documentation;

3. Implementation of appropriate registration journals and documentation in police departments, divisions, at the TDPs, elimination of deficiencies, strengthening of control over the process of documentation and initiation;

4. Promoting widely the Law of the Republic of Azerbaijan on "Ensuring the rights and freedoms of persons kept in detention places" and national, international legislation acts among police officers;

5. Carrying out relevant measures for elimination of overcrowding observed in the MIA Detention Station for the administratively arrested persons;

6. Implementation of measures aimed at the prevention and use of expired medicines at the TDPs;

7. Enhancing the provision of persons detained in TDPs with material – household and hygienic means at state expenses as provided in the legislation;

8. Improving the detention conditions at the temporary detention places.

Recommendations to the Ministry of Justice

1. Implementation of appropriate registration journals and documentation in penitentiary institutions which is envisaged by the Internal Disciplinary Regulations, elimination of deficiencies, strengthening of control over the process of documentation and initiation;

2. In the Instruction on the Security Measures and Implementation Rules in the Penitentiary System of the Republic of Azerbaijan, the duration, limits and bases of the application of special remedies should be improved as a last resort for compliance with the UN Minimum Rules for the Treatment of Prisoners, the European Penal Code and the CPT and SPT Recommendations;

3. Extension of the Probation Service of the Ministry of Justice with the purpose of effective control over the execution of punishments not related to isolation from society and increasing the effectiveness of governance in this area;

4. Strengthening the measures in elimination of overcrowding in penitentiary institutions and investigation isolators;

5. speeding up building of women's prison that is under construction in Zabrat settlement of Baku city, also of juvenile correctional institution, of prison located in Umbaki settlement, the penitentiary complexes in Ganja and Lenkeran cities;

6. improving the relevant infrastructure taking into account the overcrowding and unsatisfactory conditions in train coaches considered for escort of detainees from penitentiary institutions to temporary detention places and vice versa;

7. Considering as an incentive measure, due to number of reasons the relatives of detainees cannot meet with them, using Skype's facilities to connect with the experience of foreign countries (Poland);

8. improvement of the work in the field of sending them the letters at least in 1 day of apprehended or detained persons to their place of residence by the administration of the place of detention;

9. Increasing the measures in observing the demands of confidentiality of private correspondence and applications of persons detained in the institutions of the Penitentiary Service;

10. Improving the activities in realization of secondary and vocational education for prisoners and supporting its re-organization;

11. Within the framework of the Decree of the President of the Republic of Azerbaijan dated February 10, 2017 "On the Enhancement of the Application of Alternative Punishment and Procedural Compulsory Measures Not Related to Implementation of Penitentiary Activity, Humanization of Criminal Policy and Community Exclusion", improve activities on organization of modern psychological and social services in penitentiary institutions, rehabilitation of persons deprived of their liberty for a certain period and for life-time, as well as

the expansion of efforts to create new production areas to meet their own personal needs by earning certain wages;

12. Continuing the works in the direction of bringing the waiting rooms in the courts considered for detainees in compliance with modern standards;

13. The organization of the work of prisoners suffering from drugs, organize rehabilitation programs separately from other prisoners (Portuguese experience).

Recommendations to the Ministry of Health

1. Strengthen the control over the improvement of the documentation of medical records in accordance with the primary medical examination and medical assistance provided by the medical staff on the territory, strengthening of control over the process of documentation and the results of the observation and medical assistance in the MIA's Detention Stations;

2. To fasten the construction of Ganja and Sheki Psychiatric institutions in terms of compliance with the standards of storage;

3. Strengthening the measures in elimination of overcrowding in Psychiatric enterprises;

4. Implementation of measures aimed at the prevention and use of expired medicines in appropriate enterprises;

5. Increase the funds provided by mental health services in the cost of health care;

6. Creating the community based programs for persons with mental disorders, establishment of such kind of specialized settlements, expansion of the opportunities for involvement of patients to out-of-ward labor considering their abilities and interests, also in application of new approaches as undertaking relevant measures;

7. Development of standards regulating activity of patients in diagnostics of psychiatric institutions, to prepare standards on principles of urgent medical care and treatment, regulation of their home sending rules;

8. Involvement of persons in rehabilitation and other social programs carrying out the measures who is not in need of stationary treatment and stayed there only for the reason not to lose social ties to relevant social institutions;

9. Carrying out by the Ministry of Health the measures for improvement the material – living conditions in regional psychiatric institutions;

10. Increasing attention to the issue of sanitary norms on the basis of international standards in enterprises;

11. Increasing the number of specialized cadres (therapist-psychiatrist, nurses) in the psychiatric institutions, as well as a need in medical personnel of other specializations, considering the field specificity of middle and junior medical personnel working there, involving them to short-term relevant

vocational courses and carrying out encouraging measures for them corresponding to rendered services with the aim to increase its quality;

12. Promoting rejection from use practice of seclusion of patients in psychiatric hospitals in compliance with the international practice and standards;

13. Promoting the practice of refusing the patient's isolation experience in psychiatric hospitals in accordance with international practice and standards;

14. Carrying out by the MH of measures in the direction of realization the public control over psychiatric institutions.

Recommendations to the Ministry of Education

1. Capital repairing of several institutions in order to improve the detention conditions (Khinalig Secondary Boarding School named after R.Kalbiyev, Mingachevir City Integration Secondary Boarding School, Ganja City Football Support Foundation Gymnasium named after P.Huseynov);

2. Acceleration of construction work of dormitories of existing enterprises (Neftchala City Integration Training Type Gymnasium named after M.Safarov, Lerik City Integration Training Type School named after V.Ibrahimov), to take into account international experience and standards;

3. Re-organizing the activity of open and closed type special training-education institutions basing on the legislation demands for prophylactics of delinquencies committed by juveniles;

4. Involving the educational staff working in boarding schools to relevant vocational courses in order to increase their professionalism;

5. Organizing secondary and vocational education for prisoners in penitentiary institutions, improving and re-organizing the measures on perceiving computer knowledge and other skills.

6. Implementation of measures aimed at the prevention and use of expired medicines in appropriate enterprises;

Recommendations to the Ministry of Labor and Social Protection of Population

1. Formation of social adaptation and rehabilitation institutions for former prisoners established in Gobustan settlement, preparation and implementation of systematic measures to operate as regional centers;

2. Effective organization of the Social Adaptation Center for persons deprived of punishment in penitentiary institutions under the State Social Protection Fund and closely collaborating with the authority taking into account the establishment of a Probation Service;

3. Providing appropriate staff units on implementation of effective programs in Social Service Institutions under the jurisdiction of the MLSPP (Social Worker, Psychologist, Logopedist, etc.);
4. Realizing complex programs for rehabilitation and social adaptation of persons released from the penitentiary institutions, improving the social services benefiting from the MLSPP capacities;
5. Working out the individual programs for re-socialization of persons deprived of liberty for a long time and practical implementation;
6. Working out the new mechanisms on solution the employment problems of persons released from the penitentiary institutions;
7. Improving the material conditions in the Social Adaptation Centers for mentally impaired persons, persons with disabilities, the aged ones and continuation of measures towards bringing them in compliance with international standards;
8. Carrying out relevant measures in the Social Adaptation Centers, on limited reserves of medications, also advancing the quality of rendered services;
9. Bringing the detention conditions of the elderly, as well as national legislation in this sphere in compliance with the UN Principles for Older persons and other international standards.

Recommendations to the to the State Migration Service

1. Improve the proper registration and documentation required by the migration legislation, eliminate shortcomings, and strengthen control over the documentation process;
2. Installing phone conversations station for realization of the right of foreigners and stateless persons placed in the Yevlakh Rayon detention center for illegal migrants to use phone contacts, to organize library, hairdressing and medical center;
3. Establishment of the Migrants Support Centers based on the experience of European countries (Portugal), the organization of legal, medical, social and psychological support programs in these centers;
4. According to the provisions of the Migration Legislation, as well as Recommendations of CPT, there is a need to ensure meetings with a lawyer, confidentiality and to provide nutritional quality adequate to one another, to increase the number of female staff, effective access to health care and to enhance oversight over documentation.

STATISTICAL INDICATORS

Diagram 1. The number of institutions visited by the NPM

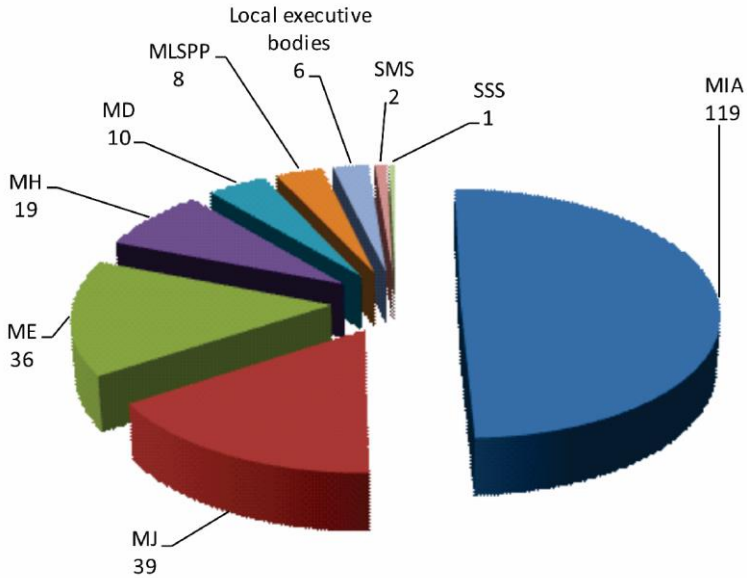


Diagram 2. The visits conducted by the NPM in 2017

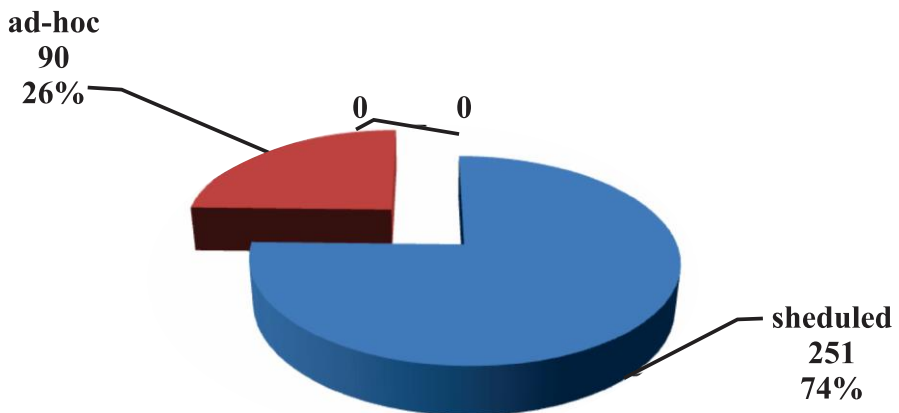


Diagram 3. The visits held by the NPM in 2017 (per institutions)

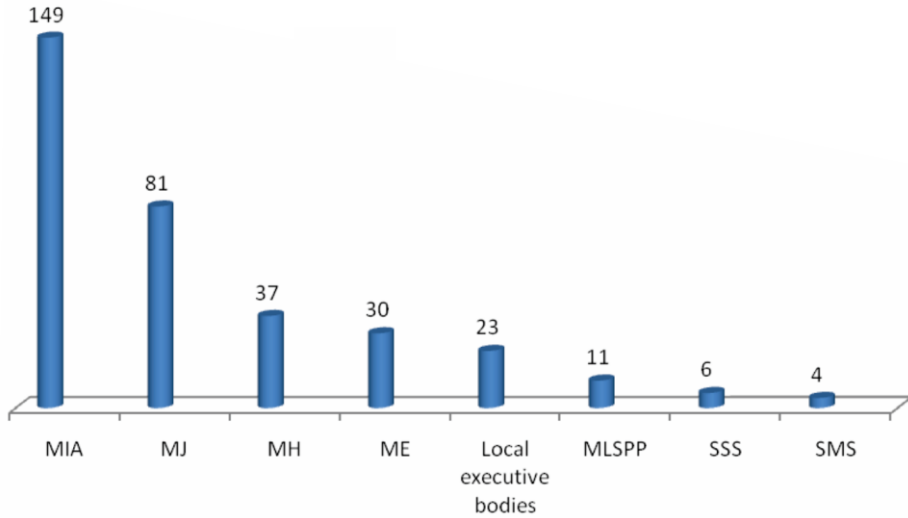


Diagram 4. The number of visits conducted by the NPM (per years)

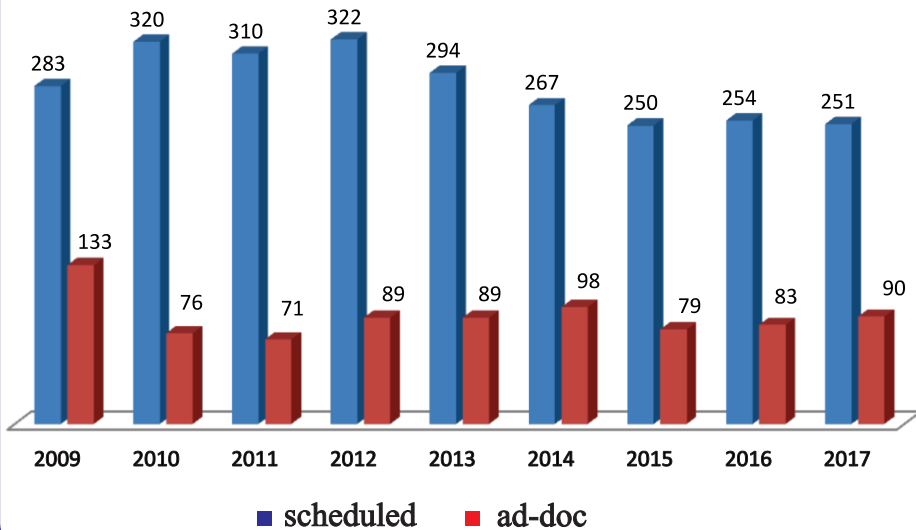
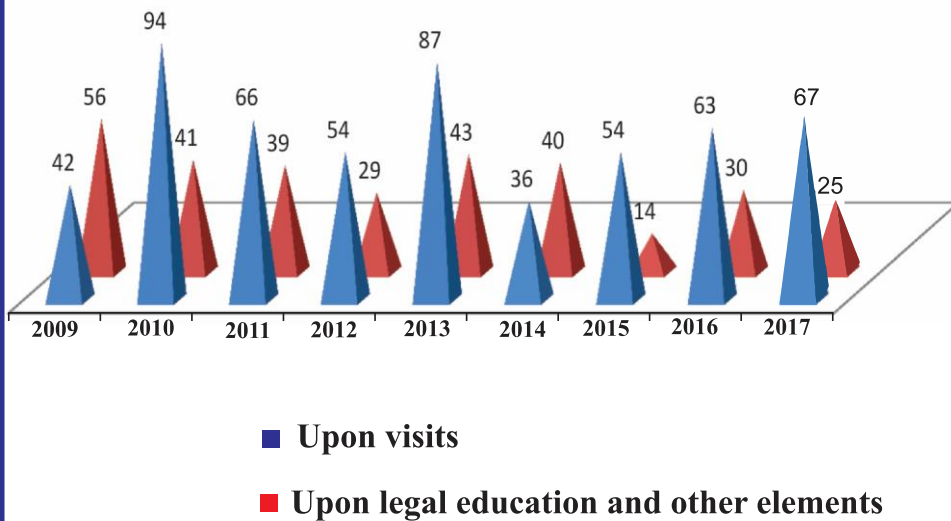


Diagram 5: MPM-in mətbuat açıqlaması (illər üzrə)



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

**Adopted on 18 December 2002 at the fifty-seventh session of the General
Assembly of the United Nations by resolution A/RES/57/199
entered into force on 22 June 2006**

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 fulfil its mandate as established in article 11.

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

3. The visits shall be conducted by at least two members of the Subcommittee on Prevention. These members may be accompanied, if needed, by experts of demonstrated professional experience and knowledge in the fields covered by the present Protocol who shall be selected from a roster of experts prepared on the basis of proposals made by the States Parties, the Office of the United Nations High Commissioner for Human Rights and the United Nations Centre for International Crime Prevention. In preparing the roster, the States Parties concerned shall propose no more than five national experts. The State Party concerned may oppose the inclusion of a specific expert in the visit, whereupon the Subcommittee on Prevention shall propose another expert.

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

Article 14

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

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

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

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

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

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

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

Article 15

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

Article 16

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

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

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

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

PART IV

National preventive mechanisms

Article 17

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

Article 18

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

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

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

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

Article 19

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

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

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

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

Article 20

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

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

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

(c) Access to all places of detention and their installations and facilities;

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

(e) The liberty to choose the places they want to visit and the persons they want to interview;

(f) The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

Article 21

1. No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the national preventive mechanism any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

2. Confidential information collected by the national preventive mechanism shall be privileged. No personal data shall be published without the express consent of the person concerned.

Article 22

The competent authorities of the State Party concerned shall examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.

Article 23

The States Parties to the present Protocol undertake to publish and disseminate the annual reports of the national preventive mechanisms.

PART V

Declaration

Article 24

1. Upon ratification, States Parties may make a declaration postponing the implementation of their obligations under either part III or part IV of the present Protocol.

2. This postponement shall be valid for a maximum of three years. After due representations made by the State Party and after consultation with the Subcommittee on Prevention, the Committee against Torture may extend that period for an additional two years.

PART VI

Financial provisions

Article 25

1. The expenditure incurred by the Subcommittee on Prevention in the implementation of the present Protocol shall be borne by the United Nations.

2. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Subcommittee on Prevention under the present Protocol.

Article 26

1. A Special Fund shall be set up in accordance with the relevant procedures of the General Assembly, to be administered in accordance with the financial regulations and rules of the United Nations, to help finance the implementation of the recommendations made by the Subcommittee on Prevention after a visit to a State Party, as well as education programmes of the national preventive mechanisms.

2. The Special Fund may be financed through voluntary contributions made by Governments, intergovernmental and non-governmental organizations and other private or public entities.

PART VII

Final provisions

Article 27

1. The present Protocol is open for signature by any State that has signed the Convention.

2. The present Protocol is subject to ratification by any State that has ratified or acceded to the Convention. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Convention.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 28

1. The present Protocol shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession, the present Protocol shall enter into force on the thirtieth day after the date of deposit of its own instrument of ratification or accession.

Article 29

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 30

No reservations shall be made to the present Protocol.

Article 31

The provisions of the present Protocol shall not affect the obligations of States Parties under any regional convention instituting a system of visits to places of detention. The Subcommittee on Prevention and the bodies established under such regional conventions are encouraged to consult and cooperate with a view to avoiding duplication and promoting effectively the objectives of the present Protocol.

Article 32

The provisions of the present Protocol shall not affect the obligations of States Parties to the four Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 8 June 1977, nor the opportunity available to any State Party to

authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

Article 33

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the present Protocol and the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act or situation that may occur prior to the date on which the denunciation becomes effective, or to the actions that the Subcommittee on Prevention has decided or may decide to take with respect to the State Party concerned, nor shall denunciation prejudice in any way the continued consideration of any matter already under consideration by the Subcommittee on Prevention prior to the date on which the denunciation becomes effective.

3. Following the date on which the denunciation of the State Party becomes effective, the Subcommittee on Prevention shall not commence consideration of any new matter regarding that State.

Article 34

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the present Protocol with a request that they notify him whether they favor 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 favor 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.