



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

REPORT

ON THE ACTIVITY OF THE NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE

(2018)

Baku – 2019

This report reflects the relevant work of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan fulfilling the functions 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 2018.

The recommendations and proposals made by the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) and European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), also by the Working Group on Universal Periodic Review of the UN Human Rights Council to periodic reports of the Republic of Azerbaijan 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 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, and by the Decree 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.

The implementation of these new functions, which is a logical continuation of legal reforms conducted within the legal state-building process in the country, has become one of the main directions of the Commissioner's activities.

The relations of the Commissioner with relevant government agencies, civil society institutions, human rights defenders, lawyers, mass media, international organizations, National Human Rights Institutions of foreign countries, with local and international experts enabled her to develop the activities as the NPM, to build successful and constructive cooperation relationships, to organize useful discussions, training and exchange of experiences.

In the context of torture or other cruel, inhuman or degrading treatment or punishment we do not miss our initiative or contribution as the NPM, with a view to provide practical advice, as well as suggesting and recommending legislation, also organizational improvements.

The presented report covers the actions taken by the Azerbaijani NPM for 2018, including carried out works, preventive visits, and their results, forwarded proposals and recommendations and their implementation status, as well as legal awareness and other activities of NPM.

I am in a hope that the issues risen in the report, the suggestions and recommendations we have put forward will contribute to the further improvement of the country experience and activities in compliance with the requirements of national and international law.

We thank in advance for proposals regarding the report.

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

DEFINITIONS AND ABBREVIATIONS USED IN THE TEXT

- AIDS** – Acquired Immunodeficiency Syndrome
- 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** – the 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 on his/her 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
- IOM** – International Organization for Migration
- 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
- MLSP** –Ministry of Labor and Social Protection of Population of the Republic of Azerbaijan
- MPO** –Military Prosecutor’s Office of the Republic of Azerbaijan
- M RTP** – Minimum Rules for the Treatment of Prisoners

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

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

SSS –State Security Service of the Republic of Azerbaijan

SPT –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 2018, the Commissioner continued the relevant work as an institution fulfilling the functions as the NPM provided by the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

As known, 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 to prevent torture and other cruel, inhuman or degrading treatment or punishment. From the standpoint of the importance of constructive dialogue and reacting to regulated relations, the OPCAT emphasizes undertaking preventive measures. 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 a system of independent and regular visits as of the most advantageous way for torture prevention with the aim to monitor the treatment of people detained in all places of deprivation of liberty and detention conditions is the principal idea mentioned in this document. According to the OPCAT, international and national bodies with a torture prevention mandate (including the Subcommittee and National Preventive Mechanisms) – are set up. The Subcommittee established at the international level is a new generation treaty body of the UN.

According 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:

¹ The 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 paragraph 2 of 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 regularly examine the treatment of the persons deprived of their liberty in places of detention;
 - to make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture, taking into consideration the relevant norms of the United Nations;
 - to submit proposals and observations concerning existing and draft legislation.³

For the successful implementation of the mandate, this is essential to ensure functional independence as well as the independence of the staff during the creation of NPMs.⁴

The OPCAT recognizes as well the following rights for the NPMs:

- to access to the information on the number of persons deprived of their liberty, treatment of them, their detention conditions, and the number and location of the places of deprivation of liberty;
 - to access to all places of deprivation of liberty;
 - to carry out personal conversations with anyone deprived of liberty or any person who may provide relevant information;
 - to choose with no hindrance the places in a will to visit and the people intend to have a conversation with;
 - to establish relationships with Subcommittee, transmit information to it and conduct meeting with it.⁵

1.2. National legislation

The OPCAT was acceded by the Republic of Azerbaijan on September 15, 2005, and ratified by the law dated December 2, 2008.⁶ The OPCAT entered into force in the Republic of Azerbaijan by the publication of the aforementioned law on 15 January 2009. On the same date, the Commissioner was designated as the institution to perform the functions of the NPM according to the OPCAT by the Decree⁷ of the President of the Republic of Azerbaijan.

³ OPCAT, Article 19;

⁴ OPCAT, Article 18(1);

⁵ OPCAT, Article 20;

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

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);

The need for a more efficient and quality organization of activities in the background of new and sufficient responsibilities conditions the extension of the mandate of the Commissioner, as well as of authority of the staff. With the additions and amendments⁸ to the Constitutional Law, the Commissioner's scope of authority, as well as the independence has been reached to meet the OPCAT requirements for NPMs. In order to implement the Commissioner's activity as the NPM, issues such as the creation of the National Preventive Group (NPG) on transparent procedures, the requirements for its members, as well as their rights and inviolability were identified.

According to the Constitutional Law, while executing the functions of the national preventive mechanism the Commissioner has the right to have to access, without hindrance and prior notification, to any governmental and municipal body, military units, as well as to the police stations (PS), temporary detention places (TDP), investigatory facilities, penitentiary institutions (PI), military guardhouses, psychiatric institutions, detention centers for illegal migrants and other places, which detained persons cannot leave on their own will; to meet privately or when deemed necessary with participation of an expert or interpreter and interview in private detained persons, as well as any other persons who may provide relevant information; to get acquainted with and obtain copies of the documents confirming the lawfulness of detention and providing information on treatment and conditions of detention of the persons mentioned above; to prepare acts and document the process and the results of the actions undertaken.⁹ The right of the Commissioner to provide relevant recommendations to the competent authorities and to receive responses to these recommendations within the identified time limits has also been enshrined in the aforementioned law.¹⁰

During the previous period, legislative acts have been upgraded with the aim of effective organization of the Commissioner's activity as the NPM, the provisions on the abovementioned competences of the Commissioner and NPG have been established in the relevant normative legal acts.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 #886 of September 23, 1994. (20.04. 2012); № 326-IVQD); The Decision of the Cabinet of Ministers of the Republic of Azerbaijan on Making Amendments to "The Sample

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 submitted to the periodic reports of the Government of Azerbaijan 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 in order to ensure an efficient activity of the Ombudsman as the NPM as specified by the OPCAT.¹²

1.3.Directions of the activity of the NPM

The NPM of Azerbaijan 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

Regulations of Open and Closed Special Correctional Institutions approved by Decision No 65 of the Cabinet of Ministers dated May 13, 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 #7 of 29 December 2011 of the Plenary Board of the Ministry of Justice” (13.07.2012, № 3-N); The Law of the Republic of Azerbaijan on the rights and freedoms of individuals kept in detention facilities (22.05.2012, № 352-IVQ); The Decision of the Ministry of Internal Affairs on “The Rules for Safeguarding and Escorting Persons Detained in Temporary Detention Places of Police Bodies” (14.01.2013, № Q1-001-13);

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

organization of joint events, and the dissemination of information on the NPM's activity in the mass media.

Alongside the aforementioned, this should be noted that the Azerbaijani NPM's activity has been closely linked with the Commissioner's mandate to receive complaints. Thus, information collected during the examination of the applications received by the Commissioner, the special weight of complaints by each agency and entity were used as a directing force in the planning of preventive visits.

The results of the Commissioner's activities in the listed spheres, achievements reached, initiatives, forwarded proposals and recommendations have been reflected in the special reports on the activity as the NPM. The reports of the previous years have been translated and published in both the Azerbaijani and English languages. Up to two hundred proposals and recommendations directed 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.

CHAPTER 2.

ACTIVITY OF THE NPM AND PREVENTIVE VISITS

2.1. The Organization of Preventive Visits

As known, conduction of visits to places which a detained person cannot leave at his/her own will is the main direction of the activity of national preventive mechanisms. Defining its priorities on performing its duties the NPM of Azerbaijan also considers the OPCAT objectives¹³.

Thus, according to 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 based on the motions of the Commissioner to the related bodies and visits are conducted per annual plan prepared based on the information received upon those motions. When 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 paid preventive visits 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 from the perspective of the 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 plan, as well as on revisiting is made with consideration of such factors as the specifications of the regime of given institution, prior cases reported on the detention conditions and treatment in previous years, location, as well as the information submitted to the NPG as a result of an analysis of the complaints addressed to the Commissioner.

¹³ OPCAT, Article 20 ;

The time allocated for a visit varies depending on the type of the institution, the number of the persons detained there, its regime and specifications, as well as the number of NPG members involved in that particular visit.

2.1.2. Ad-hoc visits

Ad-hoc visits are mainly conducted with the aim of studying the implementation status of recommendations forwarded during previous visits, prevention of persecution of persons transmitting this information to NPM, as well as an analysis of the information provided about the previous detention facility during the conversation with detainees, the complaints addressed to the Commissioner and received by the hotline, investigation the information provided to the NPG, on-site verification of the information faced in the mass media and that is a matter of interest of NPM, also at the Commissioner's initiative.

2.2. Conducting visits

Ensuring the effectiveness of visits requires encompassing three main stages. Taking these into account, the visits by the NPM of Azerbaijan are carried out at the following stages:

- Preparation for the visit;
- Conduction of 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.

In the course of preparation, the information obtained from previous visits or other sources, the appeals received from the Commissioner, the information received from the media, as well as normative-legal acts and international standards regulating the activities of the enterprise to be implemented are analyzed during the preparation of the necessary data.

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 status of elimination of 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.

When organizing the group, the composition of the group is formed, taking into account the number, specialty and gender and other factors

related to the group members, as well as depending on the purpose of the visit, a list of visits and interviews questions, interviews with convicts, act forms and questionnaires for protocols and outcomes of activities, etc. are being prepared.

Conduction of the visit encompasses several stages:

At first, an initial conversation is conducted with the administration of the institution, here the group members introduce themselves and provide the 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. In this case, the custody condition of the institution - the condition, size, capacity, actual location, lighting, ventilation, furniture supply of the premises, the cell or of the rooms, personal hygiene and sanitation, nutrition issues are evaluated; the availability of medical services, existing documentation, etc. are monitored.

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

Talking with the staff of the institution is also among the important parts of the visit. During the conduction of the visit, in order to assess the treatment by the institution staff responsible for the detainees, the NPG members organize interviews with them. In some cases alongside the mentioned talks, special surveys for staff are used.

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 the spot are brought to the attention of the administration and relevant recommendations are given. At the same time, this is informed that the administration of the relevant authority will be urged regarding the results.

Post-visit activities. The objective of the activity of the NPM is not only conducting visits to relevant places, organization of the measures aimed at the improvement of the treatment of and custody conditions for the detainees in different institutions is also included into this process.

That is the very reason that after a visit is concluded a report has compiled, the outcomes are analyzed and recommendations for the improvement of the treatment and conditions are worked out and submitted to the relevant bodies.

In general, when considered necessary by the NPG, a repeated visit is scheduled and conducted to the institution shortly after the previous one

with the aim to monitor on the spot the status of implementation of the recommendations submitted.

In 2018, the NPG members conducted 343 visits to the places which detained persons cannot leave on their own will, out of which 220 were *scheduled* and 123 were *ad-hoc* visits.

Thus, accordingly, 186 visits were carried out to the institutions of the MIA, 56 – to the institutions of the MJ, 4 visits were paid to the institutions of the SSS, 3 to the institutions of the SMS, 29 to the institutions of the MH, 7 to the institutions of the MLSPP, 44 to the institutions of the ME, and 14 visits were carried out in the institutions of local executive authorities.

Legal awareness talks were held individually with 3114 detainees in places which persons cannot leave on their own will, as well as with up to 600 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 detention conditions and the Commissioner who fulfills 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 persons who appealed to the Commissioner, their 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.

During the visits, numerous persons were received, also taking into consideration the investigation conducted upon the appeals addressed from detainees, their family members and lawyers, human rights defenders to the Office and hot-lines, as well as from the civil society institutions, non-governmental organizations and International Committee of the Red Cross to the Commissioner.

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 for

investigation when necessary. In all cases, the applied persons were replied on-time officially in written with regard to the investigation.

2.2.1. Institutions of the Ministry of Internal Affairs

In 2018, 186 scheduled and *ad-hoc* visits were conducted to the temporary detention places and police units within the framework of the activity of the Ombudsman as the NPM. During these visits private conversations were held with 570 detainees; their detention conditions were evaluated, the possibility of their subjection or not to ill-treatment during the period of detention or arrest were investigated.

The Commissioner and his NPG members held meetings with the administration and staff of district (city) police bodies, conducted legal awareness activities with them, highlighted the importance of paying special attention to the provision of human rights and freedoms; cooperation in this field was discussed. During the meetings the legal publications, educational materials of the institute were presented; this was recommended to learn these materials, to use them in training and practice.

Monitoring was held on the existence or not of the relevant announcements with the Ombudsman's Hotline numbers and hot-line banners were presented to ensure access to them in places of their absence.

Subjection or not of persons brought to the police bodies to ill-treatment at this or another form was the issue of investigation during the visits to temporary detention facilities, the confidentiality of the data with regard those persons was ensured.

This was observed that measures were realized in order to ensure more secure human rights, bringing of existing detention facilities in compliance with modern standards in the TDPs, reconstruction, and enhancement of the material and technical base.

At the same time, it was observed that the work was also carried out to improve the attitude towards the detainees, to eliminate the deficiencies and the circumstances that caused them, and to strengthen the oversight the work of TDPs.

The Ombudsman's appeals to the Ministry of Internal Affairs regarding the investigation of the revealed violations were kept in focus, the violations were eliminated, the perpetrators were punished within the law frames and other police authorities were informed and this is a significant contribution to effective cooperation.

The visit was conducted in the *Detention Station for Administratively Arrested persons of MIA*.

The purpose of the visit was to investigate the conditions of detention and the treatment of detainees, the status of ensuring their rights, including the accuracy of documentation.

Several detainees were interviewed confidentially in connection with the detention conditions; the status of ensuring their rights, the issues they raised, the documentation were examined, and a number of appeals were provided on the spot.

The cells of the DS 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.

At the end of the visit, NPG members gave appropriate recommendations to the head of the institution on improving the detention conditions and treatment issues; the Ombudsman appealed to the Prosecutor General and the Minister of the Internal Affairs in connection with the settlement of these issues and the appeals received, the appeals were replied to upon provided information.

This should be noted that the institution was renovated to improve the detention conditions, taking into account the recommendations made as a result of previous visits and the new building was constructed and put into operation to eliminate density.

A scheduled visit without prior notification was paid to the *MIA Main Organized Crime Department*.

During the visit, there was no detainee at the TDP. In this light, the documents on the detention of previously detained persons were investigated and cells were inspected, documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was reviewed; existing needs were learned as well.

At the end, legal awareness talks were conducted with the TDP personnel basing on the OPCAT, Constitutional Law and internal disciplinary rules for temporary detention places, relevant recommendations were put forward in compliance with the national and international legislation, as well as issues related to the improvement of the documentation and the provision of appeals were discussed with the management.

During the visit without prior notification paid by the members of the NPG to the **Absheron DPD TDP**, all TDP cells were monitored, relevant documentation and registry journal were reviewed.

In the course of the visit, persons detained in the TDP were received individually, appeals were received and their requests were responded by NPG members; their rights and competences of the Ombudsman were explained and legal advice was given. Along with these, the documents

relating to the legality of the detention of those persons, as well as the treatment of them and their detention conditions were investigated.

At the end of the visit, NPG members gave relevant recommendations to the administration of the Department and the head of the TDP on the elimination of deficiencies in the documentation, improvement of detention conditions and treatment issues.

According to the instruction of the Commissioner for Human Rights, the members of the NPG of the Ombudsman carried out planned visits without prior notice to ***TDP of the Police Department of Nasimi District, as well as to the Police Divisions #19, 22 and Police Sections #20, 21 of that DPD.***

The purpose of the visit was to investigate the detention conditions and treatment issues, the status of ensuring their rights in compliance with the legislation, including the conduction of documentation.

Within the frames of visit to TDP the documents on legality of the detention of persons, as well as treatment and detention conditions were investigated and all cells were inspected; documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was reviewed; existing needs were learned as well.

The administratively arrested, as well as those detained and arrested under the criminal procedure legislation kept in the TDP were personally received by NPG members and their appeals were provided.

Some individuals expressed their dissatisfaction with the investigation of their case they were provided legal advice on the issues raised in their appeals with regard to decriminalization of relevant crimes and other crimes, as well as civil-law relations.

At the end of the visit, the discussions on the issue of improving the documentation and detention conditions, the provision of the appeals were carried out with the administration of the institution; legal awareness addressed at the staff was conducted based on national and international legislation, relevant recommendations were given.

During the visit ***to the Police Divisions #19, 22 and Police Sections #20, 21 of Nasimi DPD,*** there were no detainees. Legal awareness talks were conducted with the responsible personnel basing on the provisions of OPCAT, Constitutional Law, relevant recommendations were put forward in compliance with the national and international legislation, relevant recommendations have been made to eliminate the deficiencies identified in the documentation and its improving.

A scheduled visit without prior notification was conducted in ***TDP of the Police Department of Sabail District, as well as the Police Sections #8, 9 and 39 of the same DPD.***

The visit was aimed to investigate the detention conditions and treatment issues, ensuring the rights of detainees following the legislation, as well as revising the status of conduction of documentation.

During the visit, there were no detainees in the TDP. The TDP relevant registry journal was reviewed on the information about individuals detained previously, documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; all cells were monitored; existing needs were learned.

In the end, the discussions on the issue of improving the documentation and detention conditions, the provision of the appeals were carried out with the administration of the TDP; legal awareness addressed at the staff was conducted based on national and international legislation, relevant recommendations were given.

During the visits to the Police Stations #8 and 9 of Sabail DPD, no person was detained there; in the Police Station #39, two persons detained for the administrative offense were received and heard by NPG members individually.

At the end of the visit, legal awareness talks were conducted with the responsible personnel basing on the provisions of OPCAT, Constitutional Law; relevant recommendations were put forward in compliance with the national and international legislation, relevant recommendations have been made on improving the documentation.

A planned visit without prior notification was conducted in *TDP of the Police Department of Yasamal District, as well as Police Division #29 and Police Sections #26 and 28.*¹⁴

The purpose of visits organized based on the OPCAT and Constitutional Law was to investigate the detention conditions and treatment issues, to ensure the rights of detainees following the legislation, as well as the status of conduction of documentation.

Within the visit to the TDP, the documents relating to the legality of the detention of persons kept there, as well as to the treatment of these persons and their detention conditions were investigated; all cells were monitored; documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned.

The persons detained in the TDP, arrested in compliance with the criminal procedural legislation were received individually by the NPG members, their appeals were replied to, they have been explained their rights and the competences of the Ombudsman, legal advice was provided.

¹⁴<http://www.ombudsman.gov.az/az/view/news/1182/milli-preventiv-grupun-uzvlери-muveqqeti-saxlama-yeri-ve-polis-bolmelerine-bashchekmeler-heyata-kechirmishler>

Within the framework of the visits to these departments and divisions of the RPI, research rooms were examined, relevant registration journals and documentation were studied, legal enlightenment interviews were conducted with responsible staff and recommendations were given.

Within the framework of the visits to these Police Office and Police Stations of the DPD, investigation rooms were examined, relevant registration journals and documentation were studied, legal enlightenment talks were conducted with responsible staff and recommendations were given.

The outcomes of the meetings, the improvement of the documentation and the provision of appeals were discussed with the administration of the District Police Department. Besides these, legal enlightenment talks addressed to TDP staff were conducted and relevant recommendations were given in line with national and international legislation.

A visit without prior notification was conducted by the members of the National Preventive Group of the Ombudsman to ***TDP of Guba District Police Division***.

The purpose of the visit was to investigate the conditions of detention and treatment issues, to ensure the rights of detained persons in compliance with the legislation, including the status of conduction of the documentation.

Within the visit to the TDP, the documents relating to the legality of the detention of persons kept there, as well as to the treatment of these persons and their detention conditions were investigated; cells were monitored; documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected.

In order to investigate the detention conditions and treatment issues in the TDP, detainees were received by the NPG individually, their appeals were heard, each of them was explained to the competences of the Ombudsman and legal advice was provided, and several appeals were investigated and provided on the spot.

At the end of the visit, legal enlightenment talks were conducted with the head and staff of the TDP and appropriate recommendations were given to eliminate identified deficiencies, such as in the submission of applications, documentation, and registration.

The visit to ***Gusar District Police Division Temporary Detention Place*** was carried out.

During the visit, in order to investigate the detention conditions and treatment issues in the TDP, detainees were received individually by the NPG, their appeals were heard, each of them was explained to the competences of the Ombudsman and legal advice was provided, and a number of appeals were investigated and provided on the spot.

A visit was conducted in *Siyazan DPD TDP*.

Within the visit to the TDP, the documents relating to the legality of the detention of persons kept there, as well as to the treatment of these persons and their detention conditions were investigated; cells were monitored; documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned.

In the course of the visit, for the investigation of the detention conditions and treatment issues in the TDP, detainees were received individually by the NPG, their appeals were heard, each of them was explained to the competences of the Ombudsman and legal advice was provided, and a number of appeals were investigated and provided on the spot.

The detainees were received individually by the NPG, their appeals were heard, each of them was explained to the competences of the Ombudsman and legal advice was provided, and several appeals were investigated and provided on the spot.

At the end of the visit, legal enlightenment talks were conducted with the head and staff of the TDP and relevant recommendations were given to eliminate revealed deficiencies related to the submission of applications, documentation, and registration.

A visit was conducted in *Khachmaz DPD TDP*.

During the visit, with the purpose to investigate the detention conditions and treatment issues in the TDP, detainees were received by the NPG individually, their appeals were heard, each of them was explained to the competences of the Ombudsman and legal advice was provided, and a number of appeals were investigated and provided on the spot.

At the end of the visit, legal enlightenment talks were conducted with the head and staff of the TDP and relevant recommendations were given with regard the submission of applications, documentation, and registration.

A visit was conducted in *Shabran DPD TDP*.

The visit was aimed at the investigation of the conditions of detention and treatment issues, to ensure the rights of detained persons in compliance with the legislation, as well as the status of conduction of the documentation.

Within the frames of visit to the TDP, the documents relating to the legality of the detention of persons kept there, as well as to the treatment of these persons and their detention conditions were investigated; cells were monitored; documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned.

During the visit, to investigate the detention conditions and treatment issues in the TDP, detainees were received individually by the NPG, their

appeals were heard, each of them was explained to the competences of the Ombudsman and legal advice was provided.

A visit was conducted in ***Khizi DPD TDP***.

Within the frames of visit to the Temporary Detention Place, the documents relating to the legality of the detention of persons kept there, as well as to the treatment of these persons and their detention conditions were investigated; cells were monitored; the documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned.

During the visit, in order to investigate the detention conditions and treatment issues in the TDP, detainees were received individually by the NPG, their appeals were heard, each of them was explained to the competences of the Ombudsman and legal advice was provided, and several appeals were investigated and provided on the spot.

At the end of the visit, legal enlightenment talks were conducted with the head and staff of the TDP and relevant recommendations were given with regard the elimination of revealed deficiencies in the submission of applications, documentation, and registration.

A visit was paid to ***Temporary Detention Place of Shaki Town District Police Division***.

The purpose of the visit was to investigate the conditions of detention and treatment issues, to ensure the rights of detained persons in compliance with the legislation, as well as the status of conduction of the documentation.

Within the visit to the TDP, the documents relating to the legality of the detention of persons kept there, as well as to the treatment of these persons and their detention conditions were investigated; cells were monitored; the documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected.

During the visit, there was only administratively arrested persons in the TDP; in order to investigate the appeals, detention conditions and treatment issues in the TDP, they were received individually by the NPG, their appeals were heard, each of them was explained to the competences of the Ombudsman and legal advice was provided.

This was observed that records were not included correctly in the TDP's journal of carrying out of the cell, relevant acts did not comply and staff was not informed about the IDR.

At the end of the visit, legal enlightenment talks were conducted with the head and staff of the TDP and relevant recommendations based on domestic and international legislation were given with regard the elimination of revealed deficiencies in submission of applications, documentation, and registration.

A visit was paid to ***Temporary Detention Place of Lankaran Town District Police Division.***

The purpose of the visit was to investigate the conditions of detention and treatment issues, to ensure the rights of detained persons in compliance with the legislation, as well as the status of conduction of the documentation.

Within the frames of visit to the TDP, the documents relating to the legality of the detention of persons kept there, as well as to the treatment of these persons and their detention conditions were investigated; cells were monitored; the documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of the cell and parcels was inspected.

A.A. released upon a court decision was waiting in front of the service staff room inside the TDP but after the intervention of NPG members, he was immediately released.

During the monitoring in Temporary Detention Place of Lankaran Town District Police Division, it was found out that the officers on duty fulfilled the registration journal incompletely; there was a density in the TDP.

During the visit, in order to investigate the detention conditions and treatment issues in the TDP, detainees were received by the NPG individually, their appeals were heard, each of them was explained to the competences of the Ombudsman and legal advice was provided, and a number of appeals were investigated and provided on the spot.

At the end of the visit, legal enlightenment talks were conducted with the head and staff of the TDP; relevant recommendations based on domestic and international legislation were given with regard the elimination of revealed deficiencies in the submission of applications, documentation, and registration, an appeal was submitted to the Ministry of Internal Affairs.¹⁵

The next visit was carried out without prior notification to ***TDP of Bilasuvar District Police Division.***

Within the frames of the visit to TDP, the documents relating to the legality of the detention of persons kept there, as well as to the treatment of these persons and their detention conditions were investigated; cells were monitored; the documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned.

During the visit, in order to investigate the detention conditions and treatment issues in the TDP, detainees were received by the NPG individually, their appeals were heard, each of them was explained to the

¹⁵<http://www.ombudsman.gov.az/az/view/news/1106/milli-preventiv-grupun-uzvliriterefinden-regionlarda-bashchekmeler-davam-etdirilir>

competences of the Ombudsman and legal advice was provided, and a number of appeals were investigated and provided on the spot.

At the end of the visit, legal enlightenment talks were conducted with the head and staff of the TDP and relevant recommendations were given with regard the elimination of revealed deficiencies in the submission of applications, documentation, and registration.

A visit was paid to ***Temporary Detention Place of Salyan District Police Division.***

Within the frames of the visit to TDP, the documents relating to the legality of the detention of persons kept there, as well as to the treatment of these persons and their detention conditions were investigated; cells were monitored; the documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned.

During the visit, in order to investigate the detention conditions and treatment issues in the TDP, detainees were received by the NPG individually, their appeals were heard, each of them was explained to the competences of the Ombudsman and legal advice was provided, and a number of appeals were investigated and provided on the spot.

At the end of the visit, legal enlightenment talks were conducted with the head and staff of the TDP and relevant recommendations were given with regard the elimination of revealed deficiencies in the submission of applications, documentation, and registration.

A visit was paid to ***Temporary Detention Place of Masalli District Police Division.***

Within the frames of the visit to TDP, the documents relating to the legality of the detention of persons kept there, as well as to the treatment of these persons and their detention conditions were investigated; cells were monitored; the documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned.

During the visit, in order to investigate the detention conditions and treatment issues in the TDP, detainees were received by the NPG individually, their appeals were heard, each of them was explained to the competences of the Ombudsman and legal advice was provided, and a number of appeals were investigated and provided on the spot.

A visit was paid to ***Temporary Detention Place of Jalilabad District Police Division.***

Within the frames of the visit to TDP, the documents relating to the legality of the detention of persons kept there, as well as to the treatment of these persons and their detention conditions were investigated; cells were monitored; the documentation on nutrition, medical aid, walking, meetings,

phone conversations, carrying out of cell and parcels was inspected; existing needs were learned.

During the visit, in order to investigate the detention conditions and treatment issues in the TDP, detainees were received by the NPG individually, their appeals were heard, each of them was explained to the competences of the Ombudsman and legal advice was provided, and a number of appeals were investigated and provided on the spot.

At the end of the visit, legal enlightenment talks were conducted with the head and staff of the TDP and relevant recommendations were given with regard the elimination of revealed deficiencies in the submission of applications, documentation, and registration.

A scheduled visit was paid to *Temporary Detention Place of Goranboy District Police Division.*

During the visit, cells, rooms of the TDP for identification and investigation, medical rooms, kitchens, places for meetings, walking, and storage of personal belongings were monitored.

Persons detained in the TDP were received individually; their nutrition, and physician supervision, the treatment of the service staff towards them and the complaints were investigated on the spot.

At the end of the visit, the TDP staff were provided with the extensive information on the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, awareness-raising talks were conducted on the rights and duties of “detained and arrested” persons, internal disciplinary rules at detention places; relevant recommendations were given to further improve detention conditions.

This should be noted that on the monitoring day it was observed that in connection with repair works in TDP of Mingachevir City Police Department, the persons should be detained there were detained temporarily in TDP of Goranboy District Police Office.

A scheduled visit was paid to *Temporary Detention Place of Dashkasan District Police Division.*

During the visits, detainees in the TDP stated that they were not dissatisfied with the condition there and the treatment of the police officers.

During the visits, a general overview was carried out in Dashkasan DPD TDP, the state of detention cells; baths, cuisine, investigative rooms, walking area and condition in TDP were determined as satisfactory.

During the review of the registration journals of Dashkasan DPD TDP, it was revealed that despite of the requirement of paragraph 8.3 of the “Temporary Internal Discipline Rules in the Detention stations for administratively arrested persons” approved by the decision #Q14-001-14 of the Ministry of Internal Affairs of the Republic of Azerbaijan dated June 11, 2014, even though parcel and food was sent to administratively arrested T.I.,

that parcel was not noted in the “Registration book of items (foodstuffs, goods) contained in parcels, sent packets, and wrappers brought to detained or arrested persons kept in a detention station” and despite paragraph 2.2 of the mentioned IDR, there were no records in the relevant book about phone conversations of detainees in the station; an act was drawn up with the participation of the head of the TDP regarding the identified deficiency.

At the end the visit, Dashkasan DPD TDP staff was provided with the extensive information on the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, awareness-raising was carried out on the rights and duties of “detained and arrested” persons, internal disciplinary rules at detention places; relevant recommendations were given to further improve detention conditions.

An *ad-hoc* visit was conducted in the ***Temporary Detention Place of Ganja city Main Police Department***.

The purpose of a visit organized upon the requirements of OPCAT and Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was to investigate the treatment of detainees and their detention conditions.

For this purpose, TDP cells were monitored; the documentation on nutrition, medical aid, walking, meetings, phone calls, carrying out of cell and parcels was reviewed, daily prosecutor’s supervision documents, as well as treatment issues have been investigated.

Within the frames of the visit legal enlightenment conversations with police officers were carried out based on the provisions of Convention and Optional Protocol to it.

At the end of the visit, the recommendations were given to the head of the institution regarding the improvement of detention conditions and treatment, and discussions were held on the solution of the mentioned these issues.

A *scheduled* visit was conducted in the ***Temporary Detention Place of Naftalan Town Police Division***.

During the visit, rooms of the TDP for identification and investigation, cells, medical room, kitchen, places for meetings, walking, and other rooms were monitored.

The detention conditions and treatment of the detainees in the TDP were learned, detainees received individually made no complaints on the conditions in the TDP and the treatment of the service staff towards them.

In the course of the visit, registration journals and the documents confirming the legality of the detention of Naftalan DPD TDP, at the same time the “Registration Book of the persons brought to the city-district-line Police Offices” were reviewed.

During the visit, in the course of conversations with the detainees this was stated that they – G.E., J.S., E.N. were sent parcels, foodstuff by relatives at different times, however, during the review of the “Registration book of items (foodstuffs, goods) contained in parcels, sent packets, and wrappers brought to detained or arrested persons kept in a detention station” it was observed that no notes were taken, at the same time, when reviewing the “Registration Book of the persons brought to the city-district-line Police Offices” it was found out that there were no reports on the bringing date and time of some of the persons to the police body; an act was drawn up with the participation of the head of the TDP regarding these deficiencies. The recommendations were given to address the issue with bringing it to the attention of the administration of the Police Office and, at the same time the appeal was submitted to MIA.

A visit was conducted in the *TDP of Yevlakh DPD*.

Within the frames of the visit to TDP, the documents relating to the legality of the detention of persons kept there, as well as to the treatment of these persons and their detention conditions were investigated; cells were monitored; the documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned.

During the visit, in order to investigate the detention conditions and treatment issues in the TDP, detainees were received by the NPG individually, their appeals were heard, each of them was explained to the competences of the Ombudsman and legal advice was provided, and a number of appeals were investigated and provided on the spot.

At the end of the visit, legal enlightenment talks were conducted with the head and staff of the TDP and relevant recommendations were given with regard the elimination of revealed deficiencies in the submission of applications, documentation, and registration.

While reviewing the registry books of the TDP, it was determined that the registry books of phone conversations and of parcels brought to detainees were not available, and Sanitary-Cleaning registry journal contained no notes for the work done in 2018, an act was drawn up with the participation of the head of the TDP regarding these deficiencies. The issue was brought up to the attention of the administration of the Police Division and, at the same time, the appeal on the elimination of the case was submitted to MIA.

A *scheduled* visit was conducted in the *Temporary Detention Place of Gazakh District Police Division*.

During the visit, monitoring was made to cells of the detainees including the administratively arrested persons, meeting, medical, worship,

identification and investigation rooms, kitchen, bathroom, TDP service rooms and walking areas for detainees.

Recommendations were made to the head of the TDP to further improve the detention conditions in the TDP and the rights of detainees.

During the review of a relevant book of Gazakh DPD, it was revealed that despite the existence of a note on bringing B.I. to DPD, there were no notes on the release of this person from the Division or undertaken measures with regard him/her. An act was drawn up with the participation of the head of the TDP in this regard. The issue was brought up to the attention of the administration of the Police Division and, at the same time, the appeal on the elimination of the case was submitted to MIA.

A *scheduled* visit was conducted in the ***Temporary Detention Place of Akhstafa District Police Division***.

Registry journals of Akhstafa DPD TDP were examined, which revealed that the relevant records were made, during the acquaintance with the documents confirming the legality of detention no unlawful cases were determined.

General monitoring of Akhstafa DPD TDP was carried out, the condition of detention cells, bathroom, kitchen, medical, prayer room, and investigation rooms, the room of the head of TDP, walking area were observed as satisfactory, and repair works in the building were carried out.

The Ombudsman's staff provided the head of Akhstafa DPD TDP with necessary recommendations for further improvement of the detention conditions in the TDP and the theoretical preparation of TDP staff of the law on the custody.

The purpose of a visit carried out without a prior notification to ***Tovuz District Police Division Temporary Detention Place*** was the investigation of the conditions of detention and treatment, ensuring the rights of detainees in compliance with the Law of the Republic of Azerbaijan "On the Rights and Freedoms of Persons detained in the Places of Arrest" and Internal Disciplinary Rules for Temporary Detention Places, as well as learning of the state of conduction of documentation.

During the visit, persons detained in the TDP were received by the NPG individually, their appeals were heard and replied, they were explained to their rights and the competences of the Ombudsman and legal advice was provided.

Alongside this, the documents relating to the legality of the detention of those persons, as well as to their treatment of and detention conditions were investigated; cells of TDP were monitored; the documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned.

The detainees did not complain about the treatment of TDP staff and their detention conditions.

Relevant recommendations have been made by the NPG members on improving the detention conditions and treatment issues.

Within the frames of the visit paid to the ***Temporary Detention Place of Shamkir District Police Division***, the documents relating to the legality of the custody of detainees, as well as to their treatment of and detention conditions were investigated; all cells of TDP were monitored; the documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned.

At the end of the visit, the administration of the TDP was given recommendations in compliance with the Law of the Republic of Azerbaijan “On the Rights and Freedoms of Persons detained in the Places of Arrest” and Internal Disciplinary Rules for Temporary Detention Places.

The purpose of a visit carried out without a prior notification to ***Goygol District Police Division Temporary Detention Place*** was the investigation of the conditions of detention and treatment, ensuring the rights of detainees in compliance with the Law of the Republic of Azerbaijan “On the Rights and Freedoms of Persons detained in the Places of Arrest” and Internal Disciplinary Rules for Temporary Detention Places, as well as learning of the state of conduction of documentation.

During the visits, persons detained in the TDP were received by the NPG members individually, their appeals were received and replied, they were explained to their rights and the competences of the Ombudsman and legal advice was provided.

Alongside this, the documents relating to the legality of the detention of those persons, as well as to their treatment and detention conditions were investigated; cells of TDP were monitored; the documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned.

At the end of the visit, the NPG members gave recommendations to the head of the TDP regarding the improvement of the detention conditions and treatment issues.

A visit without a prior notification was conducted to ***Gadabay District Police Division Temporary Detention Place***.

The purpose was to investigate the treatment of detainees and their detention conditions.

For this purpose, TDP cells were monitored; the documentation on nutrition, medical aid, walking, meetings, phone calls, carrying out of cell and parcels was reviewed, daily prosecutor’s supervision documents, as well as treatment issues have been investigated.

Within the frames of the visit legal enlightenment conversations with the personnel of the Police Office were carried out based on the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and Optional Protocol to it.

At the end of the visit, the recommendations were given to the head of the institution regarding the improvement of detention conditions and treatment, and discussions were held on the solution of the mentioned these issues.

A visit without a prior notification was conducted to ***Samukh District Police Division Temporary Detention Place***.

The purpose was to investigate the treatment of detainees and their detention conditions.

For this purpose, TDP cells were monitored; the documentation on nutrition, medical aid, walking, meetings, phone calls, carrying out of cell and parcels was reviewed, daily prosecutor's supervision documents, as well as treatment have been investigated.

Within the frames of the visit legal enlightenment conversations with the personnel of the Police Division were carried out based on the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and Optional Protocol to it.

At the end of the visit, the recommendations were given to the head of the institution regarding the improvement of detention conditions and treatment, and discussions were held on the solution of the mentioned these issues.

The purpose of a visit carried out without a prior notification to ***Gakh District Police Division Temporary Detention Place*** was the investigation of the conditions of detention and treatment, ensuring the rights of detainees in compliance with the Law of the Republic of Azerbaijan "On the Rights and Freedoms of Persons detained in the Places of Arrest" and Internal Disciplinary Rules for Temporary Detention Places, as well as learning of the state of conduction of documentation.

During the visits, persons detained in the TDP were received by the NPG members individually, their appeals were received and replied, they were explained to their rights and the competences of the Ombudsman and legal advice was provided. Alongside this, the documents regarding the legality of the detention of those persons, as well as to their treatment of and detention conditions were investigated; cells of TDP were monitored; the documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned.

At the end of the visit, the NPG members gave recommendations to the head of the TDP regarding the improvement of the detention conditions and treatment issues.

The detainees did not complain about the treatment of TDP staff and their detention conditions.

Relevant recommendations have been made by the NPG members on improving the detention conditions and treatment issues.

Within the frames of the visit paid to the ***Temporary Detention Place of Zaqatala District Police Division***, the documents relating to the legality of the custody of detainees, as well as to their treatment of and detention conditions were investigated; all cells of TDP were monitored; the documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned.

At the end of the visit, the administration of the TDP was given recommendations in compliance with the Law of the Republic of Azerbaijan “On the Rights and Freedoms of Persons detained in the Places of Arrest” and Internal Disciplinary Rules for Temporary Detention Places.

A scheduled visit without prior notification was conducted by the members of the National Preventive Group of the Ombudsman to ***Balakan District Police Division Temporary Detention Place***.

The purpose of the visit was to investigate the conditions of detention and treatment, to ensure the rights of detainees, as well as learn the status of conduction of the documentation.

During the visit the detainees were received by the NPG members individually, their appeals were heard, they were explained to their rights and the competences of the Ombudsman and legal advice was provided.

At the end of the visit, the TDP administration was held discussions with on the conditions of detention and treatment on the basis of national and international standards, the recommendations were provided in compliance with the OHCHR recommendations, Law of the Republic of Azerbaijan “On the Rights and Freedoms of Persons detained in the Places of Arrest” and Internal Disciplinary Rules for Temporary Detention Places.

A scheduled visit without prior notification was conducted by the members of the National Preventive Group of the Ombudsman to ***Lerik District Police Division Temporary Detention Place***.

Within the frames of the visit the persons detained in the TDP were received by the NPG members individually, their appeals were replied to, they were explained to their rights and the competences of the Ombudsman and legal advice was provided. The detainees did not complain about the conditions in the institution and the treatment of the service staff.

Relevant recommendations were made by the NPG members to the head of the TDP on the improvement of the detention conditions and treatment issues.

A *scheduled* visit without prior notification was conducted by the members of the National Preventive Group of the Ombudsman to ***Neftchala District Police Division Temporary Detention Place***.

The persons detained in the TDP were received by the National Preventive Group members individually, their appeals were replied to, they were explained to their rights and the competences of the Ombudsman and legal advice was provided. The detainees did not complain about the conditions in the institution and the treatment of the service staff.

Relevant recommendations were made by the NPG members to the head of the TDP on the improvement of the detention conditions and treatment issues.

A visit without prior notification was conducted within the frames of the activity of the Ombudsman as the National Preventive Mechanism to ***Mingachevir District Police Division Temporary Detention Place***.

Along with proper documentation, treatment of detainees was investigated during the visit.

The TDP cells and walking area have been monitored; the documentation on nutrition and medical aid has been reviewed as well.

During the visit it was revealed that the note regarding administratively arrested person H.A. detained for 10 days was not included in the journal of the registry, necessary notes were not taken in the medical book with regard to administratively arrested H.A. and J.R. and that medical book was not signed by the arrested persons.

The detainees received individually did not express dissatisfaction about the conditions in the institution and the treatment of the service staff.

Within the frames of the visit legal awareness talks were conducted with the personnel of the Police Office based on the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to it.

The purpose of a visit carried out without a prior notification to ***Gabala District Police Division Temporary Detention Place*** was the investigation of the conditions of detention and treatment, ensuring the rights of detainees in compliance with the Law of the Republic of Azerbaijan “On the Rights and Freedoms of Persons detained in the Places of Arrest” and Internal Disciplinary Rules for Temporary Detention Places, as well as learning of the state of conduction of documentation.

During the visits, persons detained in the TDP were received by the NPG members individually, their appeals were received and replied, they were explained to their rights and the competences of the Ombudsman and

legal advice was provided. Alongside this, the documents regarding the legality of the detention of those persons, as well as to their treatment of and detention conditions were investigated; cells of TDP were monitored; the documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned.

The NPG members gave recommendations to the head of the TDP regarding the improvement of the detention conditions and treatment issues.

This should be noted that the results of the visits conducted by the NPG, the realized work and the revealed shortcomings were analyzed; based on the results of the analysis, the Commissioner appealed to MIA.

A letter from the Ministry of Internal Affairs to the Commissioner states that, In 2018, conduction of the technical oversight and practical training were ensured in the temporary detention places of police departments under the subordination of Baku City Main Police Department, Guba, Gusar, Khachmaz, Shabran, Siyazan, Khizi, Jalilabad, Neftchala, Salyan, Bilasuvar, Ujar District Police Divisions, internal instructions were issued to the police bodies administration to eliminate the revealed shortcomings and deficiencies.

The heads of TDP were brought to disciplinary responsibility for failing to properly conduct registration of detainees in the temporary detention places of Gadabay and Shaki city, district police bodies.

As well as during the year, 2 self-injuries, 3 suicides, 1 suicide attempt, 1 escape case were recorded in the temporary detention places and service investigations were carried out. It was reported that as a result, 4 employees were dismissed from service in the internal affairs bodies, 1 was released from his position, and 11 were subjected to disciplinary sanctions.

In her letter, addressed to the Minister of Internal Affairs, the Ombudsman also emphasized the importance of the provision of medical supplies and the necessary equipment to the medical rooms in temporary detention places of the police bodies. In the response letter it was noted that practical steps were undertaken to address the mentioned issues.

In the letter sent to the Commissioner by the Ministry of Internal Affairs, this was also stated that the existing shortcomings were discussed at the operational consultations of police bodies and specific demands were set before to the relevant officers in order to eliminate them.

2.2.2. The institutions of the Ministry of Justice Penitentiary Service.

In general, in 2018, 56 *scheduled* and *ad-hoc* visits were conducted in the investigation isolators and penitentiary institutions under the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan.

The appropriate environment was created for conduction of visits to these institutions by the Commissioner within the framework of her activity as an NPM.

Within the course of the visits to penitentiary institutions, private meetings were held with 430 persons and their detention conditions, provision of their rights, upholding of honor and dignity, the prevention of torture and ill-treatment were the issues of focus of attention.

Treatment towards the persons detained in places of arrest and penitentiary institutions, their conditions of detention, their rights to meeting, phone conversations, medical treatment, nutrition, provision with clothing for summer and winter months, heating, ventilation, of the right to appeal, to legal assistance and the other rights were the subject of investigation.

The information about the possibility of ill-treatment was investigated on the spot; the physician-member of the NPG participated in these visits, and on the basis of the information gathered, the appeals to the General Prosecutor's Office were immediately addressed, it was recommended that the issues raised should be kept under focus and investigated effectively.

Proposals and recommendations made as a result of preventive visits carried out by the NPG members within the framework of the Commissioner's activity as the NPM were based on CAT, SPT, and CPT reports, the European Penitentiary Rules, the Istanbul Protocol that is a OHCHR document related to effective investigation of ill-treatment and penalties and other international standards.

During a year, the NPG members conducted several *scheduled* and *ad-hoc* visits without prior notification to **Baku Investigation Isolator**. The purpose of these visits was the investigation of the detention conditions and treatment, as well as addressed applications, monitoring the status of ensuring the detainees' right, as well as and the conduction of relevant documentation.¹⁶

Arrested persons were received within the framework of the visit of the NPG with the participation of the physician-member; issues of treatment, nutrition, water supply, medical care, as well as measures carried out on the implementation of recommendations made during the previous visits were monitored.¹⁷

¹⁶http://polemik.az/oxu/136757/milli_preventiv_qrupunun_uzvleri__baki_istintaq_tecridxanasina_bas_cekibler

¹⁷<https://report.az/sosial-mudafie/ombudsmanin-numayendeleri-baki-i-stintaq-tecridxanasina-bas-cekib/>

Within the framework of visits the individuals who applied and those on their written own requests to the Commissioner were also received individually; their applications were heard and examined on the spot.

During the examination of the applications, the documents confirming the legality of the detention of arrested persons, medical files have also been inspected.

While investigating appeals related to treatment, issues such as a medical examination on admission and relevant compiled records after the examination, meeting with relatives and lawyers, creation telecommunication opportunities were checked on the spot.

As a result, based 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, conduction of forensic expertise was recommended and other relevant measures were carried out.¹⁸ On the basis of the received responses, written answers were given to each applicant, their family members, and lawyers.

Along with this, applications for medical examination and treatment of detainees that could be provided were raised before the medical-sanitarian unit of the institution, and others - before the Ministry of Justice's Main Medical Department.

During visits, in all cases legal advice was provided to all arrested persons on their rights, the requirements of the relevant legislation, and the issues raised, the appeals addressed to Ombudsman were received.¹⁹

Alongside these, the questions were answered on numerous amendments to the Criminal Code, the Code of Criminal Procedure, the Code of Criminal Execution, the alternatives included in the sanction of the articles, the articles under the substance of the law within the frames of legal reforms carried out as a logical continuation of the Executive Order On improving work in the penitentiary system, humanization of the punishment policy and expansion of alternative punishments and procedural enforcement measures not associated with isolation from society dated February 10, 2017, signed by the President of the Republic of Azerbaijan Mr. Ilham Aliyev.

At the end of the visits, the discussions were held with the administration of the investigative isolator on further improvement of the detention conditions, medical service and documentation in accordance with the national and international legislation, including the Law of the Republic of Azerbaijan "On the Ensuring Rights and Freedoms of Persons kept in the Places of arrest", the Internal Disciplinary Rules of Detention Facilities,

¹⁸<https://www.azadliq.org/a/29439349.html>

¹⁹<http://www.qhtxeber.az/news.php?id=13866&lang=az>

relevant recommendations have been issued, a legal awareness work has been organized for the service staff.

The MPG members carried out scheduled and ad-hoc visits in *the Investigation Isolator #2* based on the requirements of the Optional Protocol.

The aim of the visits was to investigate addressed appeals, detention conditions and treatment, the status of ensuring the rights of detainees, as well as the proper conduction of the documentation.

During the visits, the dormitories of the investigation isolator, medical-sanitary unit, penal isolator, kitchen, meeting places and other objects were inspected; the documentation and the current situation with nutrition, drinking water, as well as hot-cold water supply, medical care, walking, meeting, parcels and phone conversations were monitored.

As it was in previous years, the density was observed in the institution, and during the inspection of the cells and other facilities it was found out that the buildings of the detention facility were old and needed reconstruction.

CPT notes that all the services and activities within a prison will be adversely affected if it is required to cater for more prisoners than it was designed to accommodate (...). Moreover, the level of overcrowding in a prison, or in a particular part of it, might be such as to be in itself inhuman or degrading from a physical standpoint.²⁰

The Commissioner is of the opinion that practical steps should be taken in this direction and the construction of a new facility should be accelerated to improve storage conditions.²¹

At the end of the visits, relevant recommendations were given to the administration of the investigation isolator for further improvement of the detention conditions, medical care and documentation following national and international legislation, and legal awareness activities addressed to the service personnel were conducted.

The National Preventive Group of the Commissioner visited *the Investigation Isolator # 3*.

The aim of the visits carried out based on the requirements of the Optional Protocol and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was to investigate detention conditions and treatment, addressed appeals, the status of ensuring the rights of detainees, as well as the proper conduction of the documentation.

²⁰ 2nd General Report on the CPT's activities, 46

²¹ See: Legal Analysis Section of the Report

As mentioned in the CPT recommendations effective grievance and inspection procedures are fundamental safeguards against ill-treatment in prisons.²²

During the visits, the conditions of detention, nutrition, food provision were inspected, for this purpose the cells and canteen of the institution were examined, as well as medical service, walking, phone conversations, legal assistance and ensuring other rights.

During the investigation of the cases of detention, cameras with individual interviews were interviewed, appeals were heard, legal advice was given on the issues they raised, the powers of the Ombudsman and the requirements of the law were explained.

Relevant appeals were sent to relevant authorities and each request was answered in writing.

Visits were held within the framework of the National Preventive Mechanism of the Ombudsman in *the PI #1*.

The aim of the visits carried out based on the requirements of the Optional Protocol and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was to investigate detention conditions and treatment, addressed appeals, the status of ensuring the rights of detainees, as well as the proper conduction of the documentation.

During the monitoring, NPG members reviewed the institution's dormitories, medical and sanitary units and penal cells, in addition to the convicts who appeal to the Commissioner, numerous prisoners from various facilities of the institution have been received.

During their visit, the convicts applied to the Ombudsman and wanted to meet NPG members have been received individually, conversations were carried out with them in a confidential manner.

At the end of the visit, recommendations were given to the administration of the institution on the conditions of detention and treatment following national and international legislation, including the Internal Disciplinary Rules in Penitentiary Institutions.

The Commissioner received convicted women in *the PI #4* within the framework of the National Preventive Mechanism activity carrying out an "Open Door" day there.

Within the framework of the visit the Ombudsman held a legal awareness meeting with the participation of the management of the enterprise and the prisoners; they were widely informed about the legislative changes and impacts within the implementation process of the Executive Order On improving work in the penitentiary system, humanization of the

²² 2nd General Report on the CPT's activities, 54

punishment policy and expansion of alternative punishments and procedural enforcement measures not associated with isolation from society dated February 10, 2017, the questions were answered.

After the event, the Ombudsman has announced an “Open Door” for reception of appeals by each convict.

*CPT Recommendations state that prisoners should have avenues of complaint open to them both within and outside the context of the prison system, including the possibility to have confidential access to an appropriate authority.*²³

In this regard, during the “Open door” reception, the Commissioner received many prisoners individually, their appeals were considered, and some of them were provided on the spot.

Along with these, issues in the appeals of convicts related to investigations, decriminalization of offenses and other criminal and civil law relations have been replied in accordance with the legislation, their rights, and requirements of the relevant legislation relating to amnesty, the competences of the Ombudsman were explained to them.

During the reception, legal advice was given to convicts on applications related to social and family matters; the issues raised on their applications were submitted to relevant government agencies to address.

Convicts received individually didn't express dissatisfaction with the conditions of detention, food quality and medical care, as well as the treatment by the employees who work with them in the PI.

Within the frames of the visit, the detention conditions of convicted women living together with their children under the age of three were examined in accordance with the legislation of the penal execution and applications were received.

In the end, discussions were held with the administration of the institution, relevant recommendations were given to ensure effective provision of the convicts' rights and further improving detention conditions²⁴.

One of the issues listed in the previous recommendations of the Commissioner was the organization of work of convicts, which enlarged the production area for female prisoners to engage in production area at the PI #4.

According to the CPT recommendations, the organization and methods of work in the institutions shall resemble as closely as possible those of

²³ 2nd General Report on the CPT's activities, 54

²⁴ <http://www.ombudsman.gov.az/az/view/news/953/ombudsman-4-sayli-cezacekme-muessisesinde-achiq-qapi-qebulu-heyata-kechirmishdir>

similar work outside institutions, so as to prepare prisoners for the conditions of normal occupational life.²⁵

Purpose of the visit to *the PI #10* by the members of the National Preventive Group of the Ombudsman was to investigate received appeals, detention conditions and treatment, to ensure the rights of detainees in accordance with international standards and Internal Disciplinary Rules of Penitentiary Institutions, including the status of proper conduction of documentation.

During the conducted visit the NPG members reviewed the premises of the institution, the medical-sanitary unit, the quarantine room, the penal isolator, the meeting places and other facilities; the current situation with and documentation related to detention conditions, nutrition, drinking water, hot-cold water supply, medical aid, parcels, walking, meeting and phone conversations, as well as the measures carried out on the implementation of the recommendations forwarded during previous visits were investigated on the spot.

Every prisoner shall be provided by the administration (note: of the PI) at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served. Drinking water shall be available to every prisoner whenever he needs it.²⁶

European Penitentiary Rules particularly requires that clean drinking water shall be available to prisoners at all times.²⁷

Within the framework of the visit, numerous prisoners were individually listened at the same institution, and several of them were received tête-à-tête upon their requests, the appeals were investigated on the spot. In general, the prisoners did not complain about detention conditions and treatment.

During the reception, the prisoners were explained their rights, the requirements of the relevant legislation, the competences of the Ombudsman, and legal advice was provided on each issue they raised.

With regard to the appeal addressed to the Ombudsman, the NPG members confidentially interviewed the convicts received individually and they complained of the court sentence. These persons were explained the competences of the Ombudsman; and legal advice was provided, received applications have been raised before relevant state bodies and responded to take appropriate actions.

At the end of the meeting, discussions were conducted on and recommendations were given to the administration of the institution in order to further improve the conditions detention, the quality of medical services,

²⁵ Standard Minimum Rules for the Treatment of Prisoners, Rule 72

²⁶ Standard Minimum Rules for the Treatment of Prisoners, Rule 20

²⁷ The European Prison Rules, Rule 22.5.

nutrition and conduction of the documentation in accordance with the national and international legislation, including Internal Disciplinary Rules in the Penitentiary Institutions.

Within the framework of the National Preventive Mechanism of the Ombudsman, the MPG members conducted a visit to ***the Penitentiary Institution #16***. The purpose of the visit was to investigate appeals addressed to the Ombudsman, the detention conditions and treatment, nutrition, including the status of proper conduction of the documentation, accessibility of medical service and ensuring the rights of detainees under the IDR of Penitentiary Institutions.

*The CPT attaches particular importance to regular visits to each prison establishment by an independent body (eg. a Board of visitors or supervisory judge) possessing powers to hear (and if necessary take action upon) complaints from prisoners and to inspect the establishment's premises. Such bodies can inter alia play an important role in bridging differences that arise between prison management and a given prisoner or prisoners in general.*²⁸

During the visit to the penal isolator, the quarantine room, the medical-sanitary unit and the other facilities of the institution were viewed; the current situation with and documentation related to the detention conditions, nutrition, medical service, parcels, walking, meeting and phone conversations, as well as the measures carried out on the implementation of recommendations forwarded during previous visits were investigated on the spot.

Within the framework of the visit, convicts applied to the Commissioner, and other convicts as well have been received individually upon their requests, their appeals were heard, legal advice was provided on the issues they raised, and some appeals regarding the detention conditions were investigated on the spot.

European Prison Rules sets that all prisoners are entitled to legal advice, and the prison authorities shall provide them with reasonable facilities for gaining access to such advice.²⁹

It the end, the discussions were held with the administration of the institution, relevant recommendations were put forward to ensure efficient provision of prisoners' rights and improvement of detention conditions.

Within the framework of the National Preventive Mechanism, the NPG members carried out a visit to the ***Correctional Institution***.

The purpose of the visit was to investigate the custody conditions and treatment of juveniles detained in the institution.

²⁸ 2nd General Report on the CPT's activities, 54;

²⁹ The European Prison Rules, Rule 23

Within the framework of the visit conducted with the participation of doctor – member of the NPG, different facilities of the institution were inspected; interviews were conducted on treatment matters, issues related to detention conditions, dormitories, nutrition, medical aid as well as the undertaken measures on the implementation of the recommendations given during previous visits were investigated.

At the end of the meeting, the discussions were held with the administration of the institution, relevant recommendations were put forward to ensure efficient provision of the prisoners' rights and further improvement of detention conditions.

This is also recommended to finalize the construction of a new facility to improve detention conditions in this facility.

As considered in the EPR, the authorities shall ensure that... prisoners who are children have access to the social, psychological and educational services, religious care and recreational programs or equivalents to them that are available to children in the community.³⁰

Medical Institution of the Penitentiary Service was paid *ad-hoc* visits by the NPG members within the frames of the activity of the Ombudsman as the National Preventive Mechanism. The visits were aimed at the investigation of the appeals submitted to the Ombudsman, to investigate the accessibility of medical services and detention conditions in the institution.

Some of the received detainees expressed their dissatisfaction with the quality of medical care and rendered medical treatment. The complaints of those persons, as well as the appeals with regard moving from the PI to the Medical Institution and medical treatment, were raised before the Ministry of Justice by the Ombudsman within the frames of the NPM activity and they were satisfied.

This is stated in the Recommendations that sick prisoners who require specialist treatment shall be transferred to specialized institutions or civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings, and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.³¹

During the visits, wards were monitored and individual conversations with the treated persons were conducted.

³⁰ The European Prison Rules, Rule 35

³¹ Standard Minimum Rules for the Treatment of Prisoners, Rule 22

Some issues raised with regard the medical treatment have been investigated on the spot and provided on the basis of relevant recommendations to the chief physician.³²

The members of the National Preventive Group of the Ombudsman visited the ***Prison of the Penitentiary Prison***.

The purpose of the visit conducted in compliance with the requirements of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was the investigation of the detention conditions and treatment issues, as well as of received complaints, monitoring the state of ensuring the prisoners' rights and the status of proper conduction of the documentation.³³

Within the frames of the visit, the regime corps for life-sentenced prisoners, as well as prisoners serving part of their sentence based on judgment, penal isolator, medical-sanitary unit, visiting rooms, canteen, and other facilities, were monitored; the current situation with the detention conditions, rendering of medical aid, nutrition, drinking water, cold and hot water supply, parcels, walking, meetings and phone conversations as well as the documentation were investigated.

It was observed that there was a need in the improvement of quality of nutrition and detention conditions in some regime corps cells and penal isolator of the Institution.

There is a need to create modern psychiatric and social services in the prison facility and to rehabilitate persons subjected to a certain period or life-imprisonment sentencing through involving them to socially useful work, as well as to creation of production areas in to provide prisoners with employment to earn a salary for covering their basic needs.

During the visit, a large number of prisoners were interviewed individually in order to investigate the received complaints, the issues they raised, the matters related to meeting, phone conversations, rendering medical aid, the state of ensuring the rights, the documentation regarding applications, as well as the information disseminated in the media were investigated, and some appeals were provided on the spot.

During the reception, the prisoners were explained their rights, the requirements of the relevant legislation, the competences of the Ombudsman.

³²<http://www.ombudsman.gov.az/az/view/news/1181/milli-preventiv-grup-terefinden-cezachekme-muessiselerine-bashchekmeler-davam-etdirilir>

³³ <http://az.trend.az/azerbaijan/incident/2902876.html>

At the end of the visit, legal awareness talks were conducted with the administration of the institution and responsible prison staff, they were recommended to improve the current situation with detention condition, quality of medical service and documentation in compliance with national and international legislation as well as IDR of Penitentiary Institutions.

The Ombudsman submitted an appeal to the Ministry of Justice regarding the outcome of the visit and elimination of shortcomings.³⁴

During the visit to ***Shaki Penitentiary Institution***, the administration of the institution provided initial information on persons detained, arrested and convicted here.

Within the frames of the visit, the detention conditions and treatment issues, as well as the received appeals were investigated, and the status of ensuring the accused and convicted persons' rights, including the proper conduction of the documentation, were monitored.

*During inspections, the inspectors' task shall be in particular to ensure that these institutions are administered under existing laws and regulations and with a view to bringing about the objectives of penal and correctional services.*³⁵

During the visit to the penal isolator of the institution, one person was detained there and he was received individually. During the meeting, he said that any violation of the law against him was not permitted.

The cells of Investigation Isolator that are one of the main parts of the penitentiary Institution were also examined; the arrested persons were received confidentially.

Some of the detainees reported problems in the rendering medical care and providing telephone contact with their relatives.

During the examination of the cells of the Investigation Isolator, some mattress beds were found to be in an unusable state.

Besides, the canteen and food storage of the institution were also inspected.

In the end, the discussions were held with the administration of the institution, relevant recommendations were put forward on the effective provision of prisoners' rights and further improvement of detention conditions.

Revealed deficiencies were brought to the attention of the administration of the institution, and raised before the Penitentiary Service; their solution was taken under control in a relevant manner.

A visit to the ***Station Type Penitentiary Institution # 5*** was carried out.

³⁴ See: Legal Analysis section of the present Report;

³⁵ Standard Minimum Rules for the Treatment of Prisoners, Rule 55

In the course of the visit, preliminary information on the institution and convicts were provided by the administration of the institution.

Within the frames of the visit it was determined that there was no shopping booth, a sport area, a laundry room, a storage room for personal belongings, a cab for telephone conversations and a medical center, also lack of proper lighting system in the isolation ward of dormitories and that a part of the penal isolator floor should be replaced due to its damaged condition, there was no partition between the sanitary unit and common part.

It was reported by the administration of the institution that the repair works conducted in the building and penal isolator were temporarily suspended due to seasonal conditions and heating systems were operated and the mentioned shortcomings would be eliminated.

It was also reported that in order employment for the persons serving their sentence in the Institution, they were engaged in farming and livestock breeding in the land area rented by the PS in Akhstafa region.

*According to international experience, the conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the country's labor market and permit them to contribute to their financial support and to that of their families.*³⁶

*The organization and methods of work in the institutions shall resemble as closely as possible those of similar work outside institutions, to prepare prisoners for the conditions of normal occupational life.*³⁷

At the end of the visit, relevant recommendations were provided regarding the effective ensuring the convicts' rights and the further improvement of detention conditions.

A visit was conducted to the ***Station Type Penitentiary Institution #10***.

During the visit, the administration of the institution reported that the institution was intended for persons committing a crime of negligence and that they were currently engaged in farming and livestock breeding in Gadabay region land plots rented by the PS, provided preliminary information about the convicts.

*One of the main issues reflected in the international recommendations is that the prison authorities shall strive to provide sufficient work of a useful nature.*³⁸

*Here the hours so fixed shall leave one rest day a week and sufficient time for education and other activities required as part of the treatment and rehabilitation of the prisoners.*³⁹

³⁶ Basic Principles for the Treatment of Prisoners, Principle 8

³⁷ Standard Minimum Rules for the Treatment of Prisoners, Rule 71

³⁸ European Prison Rules, Rule 26;

This should be noted that in 2018 3 visits to the STPI #10 were carried out, and the elimination of a number of shortcomings discovered during the previous visits was observed.

The administration of the institution also informed that the repair works were being continued in the building and work on the supply of natural gas to the building was carried out.

In the course of the visit, the prisoners wishing to meet the NPG members were personally received and conversations were held with them confidentially.

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

In general, the deficiencies revealed during the visit of NPG members within the framework of the Commissioner's activity as the NPM have been resolved as a result of the preventive measures, the Commissioner's appeal to the Ministry of Justice; a collaborative and effective approach has been demonstrated by the Penitentiary Service and Main Medical Department.

The appeals submitted with regard the conduction of preventive measures were based on the UN Basic Principles for the Treatment of Prisoners, the Standard Minimum Rules for the Treatment of Prisoners, the European Prison Rules and the Code of the Azerbaijan Republic about Execution of Punishments and Internal Disciplinary Rules in Penitentiary Institutions.

The recommendations contained in the appeals were linked to the improvement of detention conditions and their bringing in compliance with standards, and the provision of right of prisoners to health, to ensure their right to receive of necessary medical in compliance with the European Prison Rules and the Recommendation No R (98) 71 of the Committee of Ministers to the Member States Concerning the Ethical and Organizational Aspects of Health Care in Prison.

The implementation status of the recommendations was checked on the spot during repeated visits.

2.2.3. The institutions of the State Security Service

The visits were conducted with the participation of the Commissioner and members of her NPG in *the Temporary Detention Place and Investigation Isolator of the State Security Service*.

³⁹ Standard Minimum Rules for the Treatment of Prisoners, Rule 55

The purpose of the visit was investigation of appeals addressed to the Ombudsman, to monitor the detention conditions and treatment of persons detained in the institution, nutrition, conduction of documentation, accessibility of medical service, the status of ensuring rights of detainees in compliance with The Law of the Republic of Azerbaijan on the rights and freedoms of individuals kept in Places of Arrest.

Necessary conditions have been created for the effective conduction of the visit.

During the visit, detention conditions, nutrition, food supply were examined and for this purpose, the cells, kitchen, and food stores were visited; as well as the status of rendering medical care, walking, phone conversations, legal assistance and ensuring other rights were monitored.

Taking into account the recommendations of the Ombudsman's within the activity as the MPM as well, major repairs were carried out in the institution, the technical equipment of the cells has been renewed, the lighting systems are replaced with new ones, and bedding has been changed.

These issues, also included in international practice and recommendations, are basic elements of life which every prisoner is entitled to enjoy while maintaining these elements will prevent many difficulties.⁴⁰

Tête-à-tête meetings with detainees were conducted with persons detained in cells visited for the investigation of treatment issues, appeals were heard, legal advice was provided to each of them on issues raised, the competences of the Ombudsman and the requirements of the legislation were explained.

The received detainees made no complaints about the treatment by the staff of TDP and Investigation Isolator and the detention conditions, and expressed their satisfaction with the quality of nutrition, walking and rendered medical service.

This should be noted that earlier in the institution there was no psychologist position; taking into account our recommendations as well, psychologist position has been added as a leading specialist in the institution's staff unit. In 2018, 305 accused persons were received by a psychologist.

At the end of the visits, discussions were held with the administration of the institution on further improvement of the conditions of detention, medical care and conduction of the documentation in compliance with

⁴⁰11th General Report on the CPT's activities, 30

national and international legislation and appropriate recommendations were put forward.⁴¹

2.2.4. The institutions of the State Migration Service

There are two institutions under the jurisdiction of the SMS which persons cannot leave at their own will, and during the year, visits were paid to by the NPG members based on the OPCAT requirements.

A visit without prior notification was carried out in *Baku Detention Center for Illegal Migrants of the State Migration Service*.

The organized visit based on the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was aimed at the investigation of the received appeals, detention conditions and treatment issues, and to monitor the status of ensuring the rights of persons detained here obligatory or voluntarily in compliance with the internal disciplinary Rules and international standards.

Within the frames of the visit, regarding the detention conditions, dormitory buildings, dwellings, and medical rooms, interview place, dining-room, food storage and other facilities of the center were visited; the current situation with and the documentation related to the organization of medical aid, food supply and provision, phone conversations were investigated.

Ensuring the rights of persons placed in the Center obligatory and voluntarily, as well as approaches towards married women, women with children, juveniles, to foreigners in need of medical treatment were the object of investigation in the course of visits.

The issues of admission and transfer, undergoing the medical examination were investigated, as well as the treatment of the service staff towards persons obligatory and voluntarily placed in the center in compliance with the migration legislation, were investigated. For this purpose, the persons voluntarily detained in the institution were heard individually and applications on issues raised were received.

In the end, legal education conversations were conducted with the administration of the institution and responsible staff; relevant recommendations were given to eliminate shortcomings concerning the conditions of detention, medical service, documentation and phone conversations following national and international legislation, SPT and CPT standards.

⁴¹<http://www.ombudsman.gov.az/az/view/news/1141/dtx-in-muveqqeti-saxlama-yeri-ve-istintaq-tecridxanasina-bashchekme-heyata-kechirilmishdir>

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

The purpose of the visit was monitoring the treatment of persons detained in the institution, 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.

Relevant conditions have been created for the effective conduction of the visit.

According to the results of the visit, it is recommended to establish a telephone call station for creating relevant conditions for migrants to enjoy telephone conversations; to increase the number of female employees in the institution; provision of the institution with cadres of physician and psychologist specialty.

2.2.5. The institutions of the Ministry of Health

The NPG members carried out 29 visits without prior notice to the institutions under the jurisdiction of the Ministry of Health.

The purpose of the visit carried out based on the national legislation, the Law of the Republic of Azerbaijan “On Psychiatric Aid”, international standards adopted within the framework of the UN and Council of Europe, and recommendations contained in the general reports of the CPT was to investigate the status of treatment with detainees, detention conditions, status of rendering medical service, documents confirming the legality of detention and of implementation of the recommendations made during previous visits.

The organized visits covered the Republican Psychiatric Hospital #1 of the Ministry of Health, including Gazakh, Shaki, Lankaran Inter-regional, and Ganja City Psychiatric Hospitals, also Guba Inter-regional Psycho-Rehabilitation Center, the Ganja City Healthcare Department’s Nursing Home, Ganja and Lankaran Inter-regional Narcological Dispensaries.

Within the framework of the visit to the Republican Psychiatric Hospital #1, the wards of the institution, buildings, meeting area, canteen, and other facilities were inspected; the current situation with and documentation related to the detention conditions in the institution, as well as the organization of medical aid, nutrition, drinking water, hot and cold water supply, parcels, walks, meetings, phone conversations were investigated.

A number of patients of relevant departments of this institution were interviewed confidentially in connection with the investigation of the detention conditions; the status of ensuring their rights, the issues they

raised, the documentation were examined, and a number of appeals related to rendering of medical aid to them were provided on the spot.

During receiving confidentially, the patients complained about the references and court proceedings with regard to them; each was given legal advice on issues raised.

During the visit, the density was observed in several wards for the patients on compulsory medical treatment upon the court judgment.

Taking into account the previous recommendations within the frames of the activity of the Ombudsman as the National Preventive Mechanism, it was observed that the heating system was functioning normally in this institution, and the conditions in other departments were satisfactory.

In the course of the visit to ***Guba Inter-regional Psycho-Neurological Support Center***, in order to investigate the detention conditions a visit was made to a common area, departments, observation rooms, wards, leisure and meeting rooms, kitchen, dining room, bath, sanitary units, storages, and administrative building.

This should be noted that, after the capital repairs, the institution was re-put to operation in 2017. From this standpoint the infrastructural condition of the institution meets relevant requirements.

A group of patients treated at the Psycho-Neurological Center received and interviewed in order to investigate issues of treatment, conversation individually were held with them.

There were no complaints from patients about the conditions of detention and treatment of their employees.

During the monitoring in ***Ganja City Psychiatric Hospital***, it was observed that the hospital was almost in a poor condition and there was a need for the adequate supply of clothing and bedding in the departments.

The premises of the facility are not suitable for stationary maintenance of patients with mental disorders. It would be expedient for these patients to be relocated to the nearest institution and the operation of this facility in an outpatient manner.

In general, speeding up the construction of a new building for the hospital was recommended to the Ministry of Health.

During the visit to ***Gazakh Inter-regional Psychiatric Hospital*** carried out by the members of the NPG, based on the OPCAT requirements, two-storey administrative building of the hospital, wards for women and men, canteen, kitchen, food store and other facilities of the institution were visited.

Taking into consideration our previous recommendations, additional room for the kitchen have been built and put into operation in the hospital and it was provided with the necessary equipment. At the same time, it was observed the preparatory works were being undertaken on the first floor of

the hospital to put into operation a worship room and additional ward for patients of about 25 sq. m.

According to Principle 13 (1(d)) of the UN Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care “Every patient in a mental health facility shall, in particular, have the right to full respect for his or her freedom of religion or belief”.

Alongside this, there is a need to re-organize the hospital’s laundry under the sanitary norms and to provide new washing machines, and to arrange a meeting room at the same time for a few meetings at the hospital.

*During the visit to **Shaki Inter-regional Psychiatric Hospital**, it was observed that as the premises of the institution were old, the detention conditions did not meet the standards, and as the number of rooms was insufficient there was density in the wards, there was no central heating system, and food was not sufficient in the food storage. In order to improve detention conditions, this is essential to accelerate the construction of a new building for this institution.*

*During the visit carried out in **Lankaran Region Psychiatric Hospital**, in order to investigate detention conditions, the monitoring was held in the common wards, leisure and meeting rooms, kitchen, canteen, bathroom, sanitary units and storages.*

In order to investigate treatment issues, a group of patients treated in the hospital was received separately and conversations individually were carried out with them. There were no complaints about the detention conditions and the treatment of the employees of the institution.

According to international standards and requirements of the European Committee for the Prevention of Torture regarding the detention of patients in the psychiatric institutions, providing sufficient living space per patient is important.

In general, it was determined during the visits that the detention conditions in Ganja, Shaki and Gazakh Psychiatric institutions were not favorable for persons with mental illnesses, as well as there was a shortage of medicines and food supplies.

This should be noted that during the visits the funds allocated for food and medicine for the persons kept in the Psychiatric Hospitals of the Ministry of Health were not the same and that different figures were sounded every time.

Thus, for the last time, it was reported that food allowance per day was 3.6 - 5 manats, and for medicines, it was almost 0.22 - 0.60 manats which must be adjusted to existing prices and needs.

Unfortunately, this was observed during the visit to the storage that the quantity of food, as well as of the medicine in compliance with the requirement was small.

From this standpoint, this is necessary to provide equal supply adequate to norms security and systematization of daily norms on the basis of a single division and normative document and bringing this in compliance with international standards.

Recommendations were given to each institution administration on issues that were identified during the visits and where it could be eliminated on the spot basing on the national and international standards, UN Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care, European Minimum Standards for Detention and Treatment of Patients, as well as legal enlightenment talks were conducted with the administration and staff of the institution in order to protect the rights of persons kept in psychiatric institutions and prevent any ill-treatment in the future.

This should be noted that proposals on improving financial provision for rehabilitation or major repairs of buildings of psycho-neurological institutions, improvement of medical care of patients treated in these institutions, as well as strengthening staffing and improving their social protection were raised by the Ombudsman during the discussions of the state budget for 2019 at the Parliament.

In 2018, NPG members made two visits to **Ganja City Health Department Nursing Home**. The visits were conducted upon the requirements of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan.

In the course of the visit, the NPG members monitored the premises of the Nursing Homes under the Ministry of Health, corpses with dormitories, including sleeping places for babies belonging to the age group of 3 and mammary babies, playroom, meeting rooms; items storage, laundry, and food storage, canteen, and supply issues were investigated.

According to the visit outcomes, there is a need in the improvement of the conditions of the enterprise's buildings, major repair of the nursery home and the provision of new inventories, the effective organization of the work of placement of infants with limited physical capacities in other institutions who leave the nursing home after reaching certain age, and increasing the awareness of employees about the relevant normative-legal acts.

Within the framework of the visit legal awareness talks were conducted with the employees of the Ganja Nursing Home, they were informed about the international standards existing in the field of rights of the child, the mandate of the NPG.

In the end, recommendations were made to the administration of the institution regarding the detention conditions and treatment issues following national and international legislation, and the elimination of deficiencies identified in the conduction of the documentation.

A visit was conducted in ***Lankaran Inter-regional Narcological Hospital*** within the activity of the Commissioner as the National Preventive Mechanism.

The purpose of the visit conducted upon the requirements of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was to investigate detention conditions and treatment issues in the institution.

In the course of the visit, the wards of the institution, leisure and meeting rooms, kitchen, dining rooms, bath, sanitary units, storage were visited, patients treated in hospital were received separately and do conversations individually were conducted with them.

In the end, the administration of the institution has been given recommendations on the improvement of the detention conditions and treatment issues.

A visit was also conducted in ***Ganja Inter-regional Narcological Dispensary*** within the activity of the Commissioner as the National Preventive Mechanism.

During the visit conducted by the NPM members upon the requirements of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan it was found out that there was a need to improve the detention conditions in the institution.

Thus, it was observed that the premises of the institution were old, wards, including administrative and service rooms, food storage, and storage room were in an unfit state.

According to the results of the NPG visit, the construction of a new building for the dispensary, familiarization with the normative acts regulating the operation of the dispensary staff, improvement of the registration process, and provision of the diversity of patients' nutrition are recommended.

From this standpoint, closed-type institutions' patients' food is another aspect of their living conditions which is of particular concern to the CPT

[according to relevant standards]. Food must be not only adequate from the standpoints of quantity and quality [...].⁴²

At the end of the visit, legal awareness talks were held being addressed at the administration and medical personnel of the institution, recommendations were made on the detention conditions and treatment issues following national and international legislation, and the elimination of deficiencies identified in the documentation.

The visits were conducted based on the national legislation, the Law of the Republic of Azerbaijan On Psychiatric Aid, as well as on the international standards, Declaration on the Rights of Mentally Retarded Persons, UN Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care⁴³ and SPT Rules, recommendations in the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) 3rd General Report on the CPT's activities (CPT/Inf (93)12, Articles 30-77).

The Commissioner appealed to the Ministry of Health concerning the results of the visits. It was stated in the response letter that the issues mentioned were taken under control and that appropriate steps were taken.

The Commissioner is in the hope that the recommendations forwarded within the NPM activities and the issues raised on the institutions will be addressed within the framework reforms in the healthcare sector, initiatives on the development of medical services, capital repair and reconstruction of medical institutions, hospitals, and improvements in the material and living conditions of these institutions.

2.2.6. The Institutions of the Ministry of Education

The NPG members carried out 44 visits without prior notification to institutions under the jurisdiction of the Ministry of Education basing on the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, the Law of the Republic of Azerbaijan On Child Rights, including the UN Convention on the Rights of the Child, the provisions of the Convention on the Rights of Persons with Disabilities, the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, SPT Recommendations, CPT Standards, the recommendations of the UN Committee on the Rights of the Child.

⁴²<https://www.psychargos.gov.gr/Documents2/%CE%9D%CE%95%CE%91/eng-standards.pdf> (CPT/Inf/E (2002) 1 – Rev. 2015)

⁴³Adopted by the UNGA Resolution 46/119 at the 75th Plenary Meeting on December 17, 1991

During the visits, detention conditions and treatment issues in educational institutions, as well as the practical application of national and international standards in this field were studied taking into account international experience; the implementation status of the recommendations given during previous visits has been investigated.

In the course of visits, there were some improvements in the material and technical conditions and the general situation in some institutions, and in some institutions the gaps in detention conditions and the lack of documentation were observed.

Purpose of the visit conducted by NPG members on the basis of the requirements of the Optional Protocol to **Mingachevir city secondary school of boarding type** was the assessment of the detention conditions of the institution and treatment, child nutrition and medicaments supply, medical service, heating supply and determining the scope of issues to be addressed.

In the course of the visit, the canteen, food store, other rooms and relevant documents were monitored, and the children living in the institution were relevantly interviewed.

This is necessary to carry out the major repair as the school building is in an unusable condition and is not suitable for children's education and living.

At the end of the visit, the NPG members made recommendations to the school administration on child rights training, oversight the behavior of the children by the staff based on national legislation and the UN Convention on the Rights of the Child.

Purpose of the visit to **Lerik city Integrated Training School of Boarding type named after V. Ibrahimov** was the investigation of the detention conditions and treatment issues, for this purpose, children have been accepted individually on a random basis, talks were conducted with them, as well as a canteen, dormitory and educational building were examined.

The building of this school was also not suitable for children's education and living.

In the course of the visit, the canteen and dormitory of the institution were observed incompetence and failing to meet relevant standards. There are almost no conditions and sanitary junctions to provide primary medical aid, and the institution does not meet sanitary requirements.

There is a need for capital repairs and improvement of detention conditions.

During the visit held by the NPG members in **the Integration Training Gymnasium of Boarding Type of Neftchala district named after M.Safarov** to investigate treatment issues, relevant conversations were

conducted with the children living in the institution, and their rights were explained.

This was observed that there was a need to improve the detention conditions in this institution and it became known that the construction of a new dormitory for the institution has been carried out.

There is a serious need for speeding up the construction for the improvement of the detention conditions.

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

This was observed during the visit that there were no conditions at the school medical station for rendering essential medical aid and medicines required, there is a need in updating inventory of classrooms, providing the dormitories with the necessary equipment, renewing the canteen and kitchen water system, transfer of food storage to more affordable and refrigerated areas, in replacing the old and partially not in order bus with a new and larger bus, as well as in changing the bus with an equipped one fit for the children with limited physical capacities.

The condition of bathrooms and sanitary units in ***Guba district, Khinalig Full Intermediate Boarding School named after R. Kalbiyev*** was getting worse. The canteen and the kitchen in the institution are located in accommodated rooms and do not meet the requirements.

In the course of the visit, untidiness and anti sanitary were observed in the common area, kitchen and canteen, sanitary units; kitchen staff did not adhere to cleanliness and sanitation rules.

At the end of the visit, the NPG members made recommendations to the school administration on child rights training, oversight the behavior of the children by the staff based on national legislation and the UN Convention on the Rights of the Child.

During the visit to ***Guba Special Vocational School***, it was observed that there was a need to thoroughly repair the premises of the institution, to improve the detention conditions, to bring them in line with the new, up-to-date standards.

The administration of the institution reported that issues related to improving the conditions of detention and the major repair of the enterprise were raised before the Ministry of Education.

Classroom, educational and leisure rooms, the library, kitchen, canteen, bath, administrative rooms and common area were examined and it was observed that the infrastructure was not suitable for children. Here, the opportunities for children to acquire qualified education, an efficient organization of their leisure time, and acquisition of professional skills are at almost a very low level.

Some of the children were brought to the institution based on a court order and partly by the decisions of the local executive authorities. This approach also creates difficulties and the children who have been placed in the boarding houses are also placed in this institution. Although there are a lot of workplace positions, there are no conditions for the rehabilitation of children who have committed socially dangerous actions, which increases the inclination among children towards behavior contrary to law.

In its turn, this contradicts the UN Convention on the Rights of the Child and the recommendations of the UN Committee on the Rights of the Child on juvenile justice reform.

The institution itself operates based on the old Charter and to change its status, this is expedient to review the “Model Regulations on Open and Closed-type Special Educational Institutions” and to reorganize the institution, review the issue of placement of children here following the legislation.

During the visit to Goranboy district **Integration Training Gymnasium of Boarding Type named after R.Agakishiyev**, the canteen of the institution, the food store, other rooms and relevant documents were inspected, relevant conversations were carried out with the children living in the institution and their rights were explained.

During the meeting with the students, responding to the questions, they did not express dissatisfaction with the detention conditions and treatment.

However, during the visit, it was observed that there was a need for updating old inventories and useless computers in the institution’s information room, as well as there was a need in gas pipeline to the gymnasium kitchen, passenger bus for transportation of gymnasium students, in new bedding for the dormitory and appropriate furniture.

Visits to **Ganja City Sports Lyceum** were carried out by NPG members.

The purpose of the visits based on the OPCAT requirements was the investigation of the treatment of children and the detention conditions in the institution.

According to the outcomes of the conducted visit, it was determined that there was a need for capital repair of the building, as well as considering the changes in the name and purpose of this lyceum, formerly known as the “Gymnasium with a Football bias of a boarding type” there is a need to approve in a short time the charter that will regulate the activities of the lyceum.

In the course of the visit held by the NPG members in **Guba City Secondary Boarding School for Children Deprived of Parental Care**, in order to investigate the conditions of detention, dormitories, classrooms and educational rooms, kitchen, bathroom and administrative rooms as well as common areas of the institution, were monitored, detention conditions,

treatment of children in the institution, their education and organization of leisure time were inspected.

Tête-à-tête conversations with some of the children in the institution were conducted within the framework of the visits, treatment of the employees of the institution towards them, children's provisions and conditions were investigated. The children did not complain about the treatment of the employees of the institution towards them.

The visits were held to *Ganja City Integration Training Gymnasium of Boarding Type* by NPG members.

During the visit it was observed that the repair works were carried out in the boarding school dormitory consisting of 3 floors, the canteen and cuisine were equipped with all the necessary equipment.

As well as administrative rooms and classrooms building, a doctor's room, a medical unit, a psychologist room, a technology room, a computer room, and a library were visited; it was observed that the rooms were equipped with new furniture and necessary supplies.

Heating systems have been completed in the gymnasium and the buildings are heated by natural gas.

During the visit, improvements in the school condition and the conduct of child rights training in the course of lessons were recommended to the school administration and publications on children's rights were presented.

Purpose of visit to Siyazan city general secondary school of boarding type was an assessment of the detention conditions and treatment in the institution, investigation of nutrition of children, medicine supply, medical services, heating supplies, etc.

During the visit, the canteen, the food store, the classrooms, and the relevant documents were examined and the relevant conversations with children living in the institution were conducted.

During the conversation, the children did not complain about the treatment of the institution's employees towards them.

The purpose of the visit to *Shaki City Integration Training Gymnasium of Boarding Type* was the assessment of the detention conditions and treatment issues in the institution, for this aim, children have been accepted individually on a random basis, talks were conducted with them.

Since 2014 the capital repair of the gymnasium building has been started, but due to the repair work has not been completed, at present, the institution operates in the former building of Shaki Mixed Type Children's Home and there is a need to improve the accommodation conditions.

During the visit, the NPG members also visited the kitchen, food store, bedrooms, and classrooms, carried out awareness talks with the students on rights and freedoms of children, as well as their responsibilities.

In the course of the visit conducted in *Salyan City Integration Training Gymnasium of Boarding Type named after A.Safarov*, the bedroom and classrooms, the kitchen, as well as the common area of the institution were visited, the detention conditions, the treatment of children in the institution and the conduct of the relevant documentation were reviewed.

Tête-à-tête conversations with some of the children in the institution were conducted within the framework of the visits, treatment of the employees of the institution towards them, children's provisions and conditions were investigated.

During the visit the NPG members also visited the kitchen, food store, bedrooms, and classrooms; they conducted awareness talks with the students on rights and freedoms of children, as well as their responsibilities.

The purpose of the visit to *Zagatala District Integration Training Gymnasium of Boarding Type* was the assessment of the detention conditions and treatment issues.

During the visit the NPG members visited the kitchen, food store, bedrooms, and classrooms; awareness talks with the students' on rights and freedoms of children, as well as their responsibilities, were carried out.

The gymnasium is provided with permanent water and heating.

During the visit, it was observed that current repair work was carried out in the gymnasium.

At the end of the visits, NPG members held legal awareness talks basing on the national legislation and international standards, including the UN Convention on the Rights of the Child with the administration and staff of the institution, gave recommendations on increasing the attention to the implementation and provision of children's rights and improving their activities in this area.

During the visit conducted in *Balakan City Integration Training Gymnasium of Boarding Type*, the bedroom and classrooms, the kitchen, as well as the common area of the institution were visited, the detention conditions, the treatment of children in the institution and the conduct of the relevant documentation were reviewed.

This institution has been put into operation since 15.09.2016 after capital repair works there. Although there is a doctor-pediatrician position in the gymnasium, this staff position has been in the vacancy for a long time.

According to the director of the gymnasium, he has repeatedly appealed to the Balakan Central Hospital to appoint a doctor-pediatrician, but this issue has not been solved yet.

During the visit, it was observed that some of the sanitary junctions failed to proper operate.

At the end of the visits, NPG members held legal awareness talks basing on the national legislation and international standards, including the UN

Convention on the Rights of the Child with the administration and staff of the institution, gave recommendations on increasing the attention to the implementation and provision of children's rights and improving their activities in this area.

The results of conducted visits and elimination of identified shortcomings have been raised by the Commissioner before the Ministry of Education. The response letter from the Ministry of Education stated that appropriate measures were carried out to eliminate the shortcomings and appropriate steps would be taken to address these issues.

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 the NPM the NPG members carried out 7 *ad-hoc* visits in 2018 under the demand of Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 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 carried out basing on the national legislation, the Law of the Republic of Azerbaijan On Psychiatric Aid, as well as international standards, the UN Convention on the Rights of Persons with Disabilities, the 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 recommendations of the UN General Assembly International Plan of Action on Ageing, CPT and SPT rules.

The visit was paid to ***Social Service Institution #2*** by the NPG members within the framework of the Commissioner's activity as the National Preventive Mechanism.

In addition to the NPG members, the UNICEF's Country Office's staff members and specialist on social work also attended at the visit.

The purpose of the visit was to investigate the detention conditions of children living in this institution and attracted to habilitation⁴⁴ and rehabilitation and treatment of institution staff towards them, as well as the status of ensuring the rights of children.

Approaches towards children living in these educational institutions, as well as the current situation based on individual and legal enlightenment

⁴⁴ Ability is enhancing free abilities of a person with disabilities to live by maximizing his or her existing potential.

conversations with institution, teachers and medical personnel, were studied in order to investigate treatment issues.

The total limit of the institution for children with limited physical capacities aged 5 to 18 has been 170 and the actual number was 140 persons upon the list on the day of the visit.

During the visit, all facilities of the institution, including bedrooms, classrooms and rehabilitation rooms, canteen and kitchens, rooms for leisure time, including painting, music rooms, as well as a gym hall were investigated. During the meeting with the children, they were satisfied with the conditions, nutrition, and treatment by the employees of the institution.

There were observed a medical room, an isolation room and a treatment room that met the modern requirements for rendering medical service.

The medical personnel work with a shift schedule, including night shifts. They reported that they called a doctor's brigade from an ambulance station if needed during a night shift.

This should be noted that 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 became clear that there was no problem with the medicine supply.

This should be also noted that taking into account the recommendations of the Commissioner within the frames of her activity as the NPM, the institution, that underwent major repairing, was provided with the necessary equipment in compliance with standards, the storage conditions, nutrition, food provision, medical service, walking and other rights, as well as the status of treatment towards children were evaluated satisfactory.

At the end of the visit, the administration of the boarding house was given appropriate recommendations by members of the National Preventive Group basing on national legislation and international standards, including the discussions on the UN Convention on the Rights of the Child and the Rights of Persons with Disabilities.

The visit was held in *the Psycho-Neurological Social Care Center #3 of Goygol district* by the NPG members.

Patients suffering from diseases such as schizophrenia, oligophrenia and Dawn Syndrome are kept at the institution. During the visit, the NPG members monitored the treatment and bedrooms, canteen and kitchen, common areas, conversations were carried out with children with limited physical capacities, and persons with disabilities. They did not complain regarding treatment issues.

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

The detention limit in the institution is 135 (beds are 135). Due to the repair work at Ganja City Areal Social Service Center for Retired Persons,

its 37 residents and 9 residents of Psycho-Neurological Social Service Institution #2 in Shamakhi are also kept in this institution, the total number of detainees is 133 and all detainees who are between the of 18 and 77 years are women. All additionally detained patients are provided with beds. There are no underage among the detainees.

Patients with schizophrenia, oligophrenia, Dawn Syndrome, cerebral palsy, cerebral palsy, mild to moderate mental illness, Huntington disease, and mentally retarded diseases are maintained at the institution.

All products of the enterprise are provided twice a month by the Food Products Procurement and Supply OJSC.

The institution consists of one 4 floored building, subsidiary farm building, a laundry; an administrative staff operates on the 2nd floor of the building.

The institution operates under the Charter of three Psycho-Neurological Social Service Institutions of the State Social Protection Fund under the MLSPP approved by the Decision of the Collegium of the MLSPP dated 25.02.2015.

It was observed that on the first floor of the facility there was a canteen, storage warehouses, kitchen, laundry room and the other part of the building on the same floor was for the patients.

It was also observed that the second floor consisted of service rooms for an administrative staff, sewing room, textile room, drawing room, music room, English language course room, beauty room, labor room, library room, computer room (12 computers available) for the effective organization of patients' leisure time and that the repair of the rooms and the corridor were in normal condition.

During the visit to the fourth floor of the facility where patients' wards were located, the condition of the rooms, wards and corridors were observed as normal, the chamber was heated by the radiator, and severe patients were kept on the same floor.

In addition to the laundry in the subsidiary farmhouse of the institution, repairing of the bath and dressing room considered for summer months was observed.

In the course of the visit, during the acquaintance with the institution's relevant registration journals - to the books of orders of Psycho-Neurological Social Provision Institution, the registration journal regarding of habitants' relatives and keens meetings, the sanitary journal of the institution, Complaints and Suggestions book for guests and residents, as well as the personal files of detainees, the conduction of relevant records were observed.

According to the results of the visit, this was determined that the institution was in need of major repair, as there was worn out as a result of

long-term use of the building and most of the walls plasters were dropped, lifting elevator needed repair because of difficulties for patients who need to be raised to the upper floors of a four-storey building in the institution premises, there was a need for dental cabinets and cadres to provide dental care at the institution and that it was necessary to increase the relevant amount because the funds provided for everyday medicines are not sufficient for the provision of quality medicines for patients.

Within the frames of the Ombudsman's activity as the National Preventive Mechanism, the NPG members visited ***Ganja City Pensioners' Territorial Social Service Center*** on the basis of the OPCAT requirements.

During the visit, NPG members reviewed the institution's bedrooms, canteen and kitchen, and common areas; received individually the elderly, persons with limited physical capacities or disabilities.

Residents of the social service institution did not complain about the detention conditions, treatment of employees of the institution.

Within the frames of measures conducted for the improvement of detention conditions, the administration of the institution was given recommendations basing on the national legislation, as well as in compliance with the UN Convention on the Rights of Persons with Disabilities and the International Plan of Action on Ageing.

2.2.8. The institutions of local executive power bodies

14 *scheduled* and *ad-hoc* visits were carried out to the institutions under the jurisdiction of the local executive bodies and NPM under the demand of OPCAT in Baku city and regions of the republic.

Within the frames of the Ombudsman's activity as the National Preventive Mechanism and under the demand of Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan the NPG members visited the ***Boarding House #1 of Baku City Executive Power***.

The purpose of the visit was to investigate the detention conditions of children living in the institution and the issues of treatment by the institution employees, as well as the status of the child's rights provision.

This was revealed during the conversation that the institution's total limit was for 110 people, and as of December 14, 2018, there were 101 detainees.

During the visit, all facilities of the institution, including bedrooms, classrooms, medical rooms, rooms for leisure time, as well as drawing, music rooms, as well as a gym hall, canteen and kitchen, food store were monitored; the production and use dates of the stored food was checked.

Three tutors-teachers were interviewed; their attitude towards children was investigated.

During confidential talks with children, each of them separately expressed no dissatisfaction with the conditions, treatment, and nutrition.

While acquainting with the state of the medical service rendered to the children, it was revealed that there were one doctor-pediatrician and four nurses for the organization of medical service.

During the investigation, it was also found out that the nearest polyclinics and private medical institutions were benefited from when there was a need for comprehensive medical examination and treatment of children.

This should be noted that the conditions in this institution provided with the necessary equipment and the treatment issues of children were assessed satisfactorily.

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

Within the frames of the Ombudsman's activity as the National Preventive Mechanism and under the demand of Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan the NPG members carried out a visit to the ***Boarding House #2 of Baku City Executive Power.***

The purpose of the visit was to investigate the detention conditions of children living in the institution and the issues of treatment by the institution employees, as well as the status of ensuring the child's rights.

It became known that the institution operated since 2000, with a total limit of 300 people and as of December 14, 2014 there were 274 detainees.

Of these, 140 children are from the "Gunerzi" Care Center groups and 134 permanently live in the institution. The children in the "Gunerzi" Care Center groups covering 3-13 year old children stay in the institution from 8:00 to 20:00 and during this period they enjoy equal rights with other children living there.

There are three pre-school groups in the institution and 2 tutors-teachers, 2 nurses supervise each group. According to the provided information, the children aged 3 to 16 are taken by their parents and legal representatives and in other cases they are registered in the graduate school newly put in

operation in Masazir settlement and they are provided with the necessary living conditions. It was defined that the parent of the five children were serving their sentence in the penitentiary institution and there are no difficulties in short-term meetings with their parents.

During the visit, all facilities of the institution, including bedrooms, classrooms, medical rooms, rooms for leisure time, as well as drawing, music rooms, as well as a gym hall, canteen and kitchen, food store were monitored; the production and use dates of the stored food was checked.

In the course of the confidential talks with children, each of them separately expressed no dissatisfaction with the conditions, treatment, and nutrition.

The detention conditions of the institution have been improved and it was provided with the necessary equipment. Conditions in the institution and treatment towards children have been assessed as satisfactory.

At the end of the visit, NPG members conducted legal awareness conversations with children and administration of the institution basing on the national legislation and international standards, the appropriate recommendations were given based on the UN Committee on the Rights of the Child and the UN Convention of the Rights of the Child, on the increasing attention to the implementation and provision of children's rights and improve the relevant activities and documentation in this field.

An *ad-hoc* visit was carried out by the members of the NPG of Ombudsman in ***Boarding House #3 of Baku City Executive Power.***

The institution has a total limit of 95 people, as of December 14, 2018 there are 91 people living there, and each group consists of 20-25 children, there are 4 groups and 2 tutors-teachers and 2 nurses work with each group.

It was reported that there were no difficulties in short-term meetings of children in the institution with the parents serving their sentence in the penitentiary institution.

During the visit, all facilities of the institution, including bedrooms, classrooms, medical rooms, rooms for leisure time, as well as drawing, music rooms, as well as a gym hall, canteen and kitchen, food store were monitored; the usefulness of stored foods was checked.

When acquainting with the state of the medical service rendered to the children, it was revealed that there were one doctor-pediatrician and four nurses for organization of medical service. The work of nurses is based on a shift schedule, which means permanent medical supervision at the institution.

During the investigation it was found out that the nearest polyclinics and private medical institutions were benefited from when there was a need for comprehensive medical examination and treatment of children. It has also

been reported that mobile dentist cabinet had been used for relevant assistance.

This should be noted that the conditions in this institution provided with the necessary equipment is in compliance with the standards, conditions of detention, nutrition, food provision, medical care, walking and ensuring other rights and the treatment of children were assessed satisfactory.

During the monitoring and interview with the administration and staff of the institution, this was observed that the number of tutor and tutor assistants was not adequate to the number of detained children, and that due to this there was a need for additional staff, including a logopaedic staff.

At the end of the visit, NPG members conducted legal awareness conversations with children and administration the institution basing on the national legislation and international standards, upon the UN Convention of the Rights of the Child, recommendations were given on the increasing attention to the implementation and provision of children's rights and improving the relevant activities and documentation in this field.

*Scheduled and ad-hoc visits to **Ganja City Boarding House** were carried out by the NPG members. The conditions of detention and treatment of school-aged children living there were investigated during the visit.*

During the monitoring, normal, accurate and neat conditions of boarding home dormitories, psychologist room, painting courses and computer room, kitchen, canteen, warehouse and generally of the institution were observed.

During the visits, all facilities of the institution were inspected, the current situation, the work carried out in order to improve the detention conditions, the issues of providing children with training supplies was monitored.

In the course of the meeting with staff of the institution they were provided legal information and recommendations on the issues of treatment of children, effective ensuring children's rights, their education, health and leisure activities basing on national and international law.

The members of the NPG held visits to **Shaki City Boarding School of Mixed Type**.

The visits were carried out basing on the national legislation, the Law of the Republic of Azerbaijan On Psychiatric Aid, as well as international standards, the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, the Law of the Republic of Azerbaijan on Child Rights, UN Convention on the Rights of the Child, SPT recommendations, CPT standards and recommendations of the UN Committee on the Rights of Child.

During the visits, children living in this institution were received confidentially and the treatment of the employees of the institution towards

them was investigated, as well as conversations with the employees of the institution were carried out.

The building of the boarding house has been reconstructed taking into account our recommendations as well; the detention conditions have been significantly improved and adapted to modern standards.

At the end of the visit, the members of the NPG of the Commissioner carried out awareness discussions based on the national legal and international standards, as well as the UN Convention on the Rights of the Child, held talks on the treatment issues with the administration of the institution.

The members of the National Preventive Group of the Ombudsman carried out an *ad-hoc* visit to ***Lankaran city Boarding House of Mixed Type named after O.Mirzayev.***

During the visit, all facilities of the institution, including bedrooms, classrooms, medical rooms, rooms for leisure time, as well as drawing, music rooms, as well as a gym hall, canteen and kitchen, food store were monitored; the usefulness of stored foods was checked.

At the end of the visit, NPG members conducted legal awareness conversations with children and administration the institution basing on the national legislation and international standards, upon the UN Convention of the Rights of the Child, recommendations were given on the increasing attention to the implementation and provision of children's rights and improving the relevant activities and documentation in this field.

CHAPTER 3.

LEGAL ANALYSIS

One of the directions of activity of Ombudsman as the NPM is a legal analysis of the information obtained by the National Preventive Group 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, existing or draft legislative acts, summarization of obtained results is carried out in the legal analysis process.

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

Efficient organization of legal analysis in 2018 was one of the main standing tasks within the frames of the Commissioner's activity as the NPM. As in previous years, the recommendations and proposals have been worked out for improving the results of activities realized for ensuring the prevention of torture and existing normative-legal base.

Alongside with the reception during the visits of persons detained in the places which they cannot leave on their own will and complaints addressed to the Commissioner, the analysis of applications received by the 24/7 Hot-Line on torture issues are also among the main sources of information for legal analysis.

Expanding the application of alternative penalties and procedural compulsory measures related to non-isolation of a person from society. The application of alternative punishment and procedural compulsory measures is crucial for the liberalization of the penal policy and this issue has been raised in the annual reports of the Commissioner in the previous years and reports on the NPM activity.

The Commissioner follows and supports realized reforms and the new approaches demonstrated in this area.

Today, in a globalizing world, law violations, causing infringement of economic and property rights, which are not directed against human life and health or the foundations of state organization break off the orbit of the criminal law and enter civil and administrative law effect and regulatory framework.

Acts defined and enshrined as criminal offenses in particular countries are being removed from such legislative acts and thereby new trends in practice of penalties are being created.

Experience indicates that, in the course of legal reforms, the offense in the field of economic activity is not considered a crime if the damage has

been covered; or those who commit those acts are held accountable for more civilian liability. This tendency, on the one hand, is related to the humanization of the penal policy but on the other hand it can also be explained by attempts to create a revival in the economic and financial life of specific countries.

In the context of the implementation of such measures as the financial amnesty, such decriminalization can be also considered positive from an economic aspect.

Complete reimbursement of damage caused by the crime and loss of profits, committing such a violation of the law for the first time may be deemed to be a ground for setting free that person from the criminal liability and the offense not to be considered a crime at all.

In this regard, the Commissioner considers that if such approaches are widely used by the courts, the principles of liberalization and decriminalization will be further enhanced and their efficiency will rise.

Provision of the Right to Meeting with the lawyer. The protection of arrested or convicted persons requires lawyers to visit them regularly. From this point of view, cooperation with the advocates is also being developed within the National Preventive Mechanism activity.

The CPT attaches particular importance to the right for persons detained, arrested or deprived of liberty to have the fact of his detention notified to a third party of his choice, the right of access to a lawyer. There are three fundamental safeguards against the ill-treatment of detained persons which should apply as from the very outset of deprivation of liberty, regardless of how it may be described under the legal system concerned (apprehension, arrest, etc).⁴⁵

From this standpoint meeting of initially detained persons at this time with a lawyer is a major safeguard against ill-treatment. Moreover, when the ill-treatment occurs, the lawyer is capable to take appropriate action.

The right to meeting with a lawyer should include the right to communicate with him privately. The arrested person has the right to request the participation of a lawyer, in principle, at any interrogation conducted by the police or any other body. Naturally, this should not prevent the detainee from being interrogated on urgent issues without the lawyer's participation or changing the lawyer creating obstacles for proper conduction of the interrogation.

*The right of access to a lawyer should be enjoyed not only by criminal suspects but also by anyone who is under a legal obligation to attend - and stay at - a police establishment.*⁴⁶

⁴⁵ 12th General Report on the CPT's activities, 36

⁴⁶ 12th General Report on the CPT's activities, 41

*In practice, the Hotline of the Ombudsman functions as an efficient mechanism for preventing difficulties may occur in realization of the right of lawyers to meet with the persons they defend.*⁴⁷

The received appeals related to the demand of penitentiary institutions from lawyers to bring additional letter from the Penitentiary Service despite owning order letter were given immediate reaction and solved.

Cooperation with advocates, human rights defenders, and civil society institutions also plays an important role in the Ombudsman's activity as the NPM. At the same time, the Commissioner attentively follows the reforms in the Bar Association. The importance of the advocacy institute in protecting the rights of citizens is undeniable.

In this regard, the steps taken to increase the number of attorneys, the exams held for advocacy can be considered as positive. *The Commissioner considers it important to increase the number of lawyers in the country.*

Comprehensive and single registration system. It is known that fundamental safeguards granted to persons in police custody would be reinforced 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.).

Conducting comprehensive registration will significantly facilitate the work of the staff of police bodies, penitentiary service institutions and other law enforcement bodies.

CPT notes that for various matters, 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 record.⁴⁸

The Commissioner believes that proper registration is an important and fundamental guarantee. Thus, all important information on the treatment of the person deprived of liberty and the procedures applied therein is contained in detail in writing. The information of different characteristic required for registration is recorded in different registries. In the course of the visits, the NPG members were getting acquainted with the registration books, these were observed that the registration was not performed properly and the changes were made in.

The shortcomings identified during the visits by the NPG members to the police bodies with regard the registration issues were widely covered in

⁴⁷ <https://www.amerikaninsesi.org/a/hebs-heyati/4396026.html>

⁴⁸ 2nd General report on the CPT's activities, 40

the Commissioner's appeal to MIA and persons omitted deficiencies *were brought to disciplinary responsibility.*

The letter sent to the Commissioner by the Ministry of Internal Affairs also states that the existing shortcomings were discussed at the police operational consultations and specific requirements were put forward before the relevant officers to eliminate them.

The Commissioner recommends that the name of the detainee, the reason for detention, the time of detention, interrogation, transfer, procedures and other matters must be properly recorded and the information should be noted in detail.

In the penitentiary institutions, there were also similar deficiencies in the registration journals of the penal isolators, medical-sanitary units and quarantine rooms.

It is also observed that the decisions and the relevant acts on transferring to penal isolator have not complied in a detailed manner.

Treatment of detainees. The above-mentioned issue was one of the issues under the Commissioner's attention and kept under control and discussed ones in cooperation with the Ministry of Internal Affairs, the Ministry of Justice, the State Security Service, the State Migration Service and other central and local executive authorities.

In particular, it should be emphasized that all TDPs in the territorial police bodies have been equipped with video surveillance systems, which can be considered as a positive factor.

According to the information provided by the Ministry of Internal Affairs, in the past 5 years 40 employees of the TDPs were dismissed from the internal affairs bodies, 6 were dismissed, and other disciplinary measures were taken regarding 199 for neglecting the implementation of control over the detainees as a result of service inspections by the ministry in the past 5 years.

In the presented information this is noted that during recent years that a number of internal regulations, various training programs and methodological materials have been worked out and submitted to subordinate bodies for the provision of human rights and freedoms in the internal affairs and justice bodies and that most of the topics identified for the professional training of the staff have been devoted to this activity.

This should be especially noted that in 2018 a joint order was issued with the Prosecutor General's Office on the prevention of torture and submitted to relevant subordinated bodies, as well as concrete instructions were set before organs and departments with the decision of the Ministry's board.

In addition to following the steps undertaken, the Commissioner recommends adopting new, detailed guidelines on detained, arrested,

deprived of liberty persons and bringing the existing guidelines into line with the principles and provisions set out in international legal acts.

Accessibility of Medical Services. The analysis of the visits shows that certain deficiencies in this area are still encountered.

Many of those received at the Medical Treatment Institution of the Penitentiary Service have expressed their dissatisfaction with the quality of medical care and treatment. Along with this, there are a lot of applications for relocation, treatment from penitentiary institution to Medical treatment institution are also common.

One of the key issues in the penitentiary institutions is the improvement of the mechanism for the treatment of prisoners suffering from mental illness and their placement in specialized psychiatric institutions.

During their stay in a prison, prisoners who suffer from other mental diseases or abnormalities shall be placed under the special supervision of a medical officer.⁴⁹ The CPT recognizes that the delivery of decent living conditions in penitentiary establishments can be very costly and improvements are hampered in many countries by lack of funds.⁵⁰

During visits to the Ministry of Internal Affairs TDPs, it was observed that the medical examination, which should be carried out within 24 hours as prescribed by the legislation, was rendered in a formalized manner.

The CPT attaches particular importance to 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).⁵¹

The country's legislation also emphasizes the importance of this issue and determines that the detainees are examined by medical personnel within 24 hours of their detention or arrest, and each person who is admitted to the TDP is issued a medical booklet.⁵²

In her letter to the Minister of the Internal Affairs, the Ombudsman emphasized the importance of supplying medicaments and the necessary equipment to the medical units at the temporary detention places of the police bodies. It was noted that practical steps were taken to address the issues mentioned in the response letter.

The Commissioner again stresses the importance of eliminating shortcomings in this area and the importance of further control.

The conditions in the temporary detention places. It should be noted that recently enough work has been realized in this field.

⁴⁹Standard Minimum Rules for the Treatment of Prisoners, Rule 82-ci

⁵⁰ 11th General report on the CPT's activities, 30

⁵¹ 2nd General report on the CPT's activities, 36;

⁵²“The Rules on Medical and psychological assistance to detained or imprisoned persons, as well as their detention in medical institutions”, Resolution #67 of the Cabinet of Ministers of the Republic of Azerbaijan, April 18, 2013.

As a result of the visits, taking into account the Commissioner's recommendations, numerous temporary detention places were rebuilt in accordance with modern standards, these places are equipped with sanitary junctions, interrogation, meeting, worship and other subsidiary rooms, as well as a modern alarm and security alarm system, video surveillance devices have been installed in order to strengthen the control over the service and the behavior of detainees, control over the behavior of those employees and cameras has been strengthened, detention conditions have been upgraded to meet modern requirements.

Persons brought to the police and detained ones were allowed to get acquainted with their rights and responsibilities as prescribed in the legislation, as well as with the information on two "hot lines" of the Commissioner operating 24/7 by the banners hanged up in temporary detention places.

A letter from the Ministry of Internal Affairs to the Commissioner states that in 2018, technical checks and practical training were provided at the temporary detention places of the police departments of the Baku City Main Police Department, Guba, Gusar, Khachmaz, Shabran, Siyazan, Khizi, Jalilabad, Neftchala, Salyan, Bilasuvar, Ujar District Police Offices, internal instructions were put forward before the police bodies to eliminate the revealed shortcomings and deficiencies.

At the same time, the problem of density has not yet been solved. In the course of the meetings, NPG members determined the cases of density. For example, the density of TDP was observed during the visit conducted in the TDP of Lankaran Town District Police Division.

CPT notes that all police cells should be clean and of a reasonable size for the number of persons they are used to accommodate and have adequate lighting⁵³.

According to the European Code of Police Ethics, police cells shall be of a reasonable size.⁵⁴

The following criterion is currently being used when assessing police cells intended for single occupancy for stays in excess of a few hours: in the order of 7 square meters, 2 meters or more between walls, 2.5 meters between floor and ceiling.⁵⁵

The Commissioner is of the opinion that measures should be taken to prevent the problem of density in the temporary detention institutions of the police.

⁵³ 12th General report on the CPT's activities, 47

⁵⁴ European Code of Police Ethics, Article 56

⁵⁵ 2nd General report on the CPT's activities, 43

Conditions of detention and medical care in institutions of the Penitentiary Service.

As the improving the detention conditions of convicts and detainees, as well as the strengthening of control over food, medical and sanitary, and material support are a continuous process, this is regularly monitored within the frames of NPM activity of the Commissioner.

Within the frames of the visits, during the monitoring the accommodation facilities, penal isolators, medical-sanitarian units, meeting places, canteen and other facilities of penitentiary institutions of the PS, it was observed that there was a need in the improvement of detention conditions, the nutrition provision and its quality.

As well as there is a need to improve the conditions of detention in cells and penal colonies when life imprisonment service in the prison, also in prison corps where prisoners are detained in a prison regime serving their sentence based on a court decision.

Effective organization of modern psychological and social services in prisons is also among important issues. In prisons, there is a need to establish modern production areas for rehabilitating of persons deprived of liberty for a certain period of time, as well as life-long prisoners, also for meeting their individual needs by earning a certain salary.

Based on the analysis of the above-mentioned issues, regarding the Commissioner's appeal to the Ministry of Justice, it was stated that relevant measures have been taken to address the shortcomings reflected in the outcomes of the visits. It was also stated that the use of special means on the prisoners in prisons decreased by 3.6 times compared to the corresponding period of 2017.

The number of presentation on the prisoners who were transferred from penitentiary institution to prisons decreased by 2.6 times compared to the same period of the previous year. Deficiencies in the documentation related to transfer to a penal isolator and release from there were eliminated and keeping the book under the requirements of the legislation and the proper comply of the records has been provided.

It was noted that the food supply of the penitentiary institutions and the nutrition of convicts were kept in focus, as the quality of the bread was improved due to the installation of new ovens in baking shops.

It is also noted in the response letter that the construction of new prison in Umbaki settlement of Garadagh rayon and other penitentiary facilities is continued in line with the funds allocated from the state budget.

The Commissioner is in the opinion that the construction, repair of penitentiary facilities, including the new prison, and creating there detention conditions in accordance with relevant international standards should be continued.

The density has been observed in the Investigative Isolator #2 of the Penitentiary Service as in previous years, during the inspection of cells and other facilities, it was determined that the buildings of the enterprise were old and needed reconstruction.

There are still shortcomings in the penitentiary institutions of station type. There is a special need to accelerate measures regarding this process. The steps taken to modernize the penitentiary institutions of station type still fail to meet requirements fully. Visits, analysis, and observations indicate that there is a need for further updating of the material-technical base, the need to improve the responsibilities and capacities of the staff. The Commissioner emphasizes the importance of increased attention to these issues.

While there are lots of work done in terms of medical and sanitary provision of convicts serving sentences in prison facilities, the realization of the right to health, there are still deficiencies.

There are still the cases when in the penitentiary institution, the daily supervision by medical personnel of health of prisoners in the penitentiary institutions, as well as control of sanitary-epidemiological situation are carried out formally, also of making corrections over notes in the related journals, incompliance of notes on the application of special means with relevant notes in the registration journal of the institution.

In some cases there were also observed the barriers for the treatment in the Medical Treatment Institution, as well as for sending here from the PIs, that the lack of operability in treatment issues resulted in complications, inappropriate approaches to prisoners who refused to eat, transferred to a penal isolator, and were imposed a special means which makes it necessary to strengthen control and take action.

Involvement of convicts to labor in the Penitentiary Institutions. One of the demands of the Executive Order On improving work in the penitentiary system, humanization of the punishment policy and expansion of alternative punishments and procedural enforcement measures not associated with isolation from society signed by the President of the Republic of Azerbaijan on February 10, 2017, was the involvement of persons deprived of their liberty to labor, the creation of new production areas, the stimulation of entrepreneurship in this field.

Currently, observations show that, although some institutions have different workshops and a knitting shop for PI for women, there is a need to expand the requirements arising from this Executive Order.

The provision of the Order with this regard also contains significant changes in the direction of rehabilitation of convicts through labor, in paying certain salaries to meet their personal needs, creating new and up-to-

date jobs. Here, it is required to publicize the production areas of the enterprises and to publicize the list of jobs.

It would also be expedient to consider the issue of specializing institutions in terms of production as well as in the reform process. Thus, exemplary models created in many countries make significant contributions to convicts' rehabilitation, perceiving work habits, and rehabilitation and adaptation to society.

The Commissioner is of the opinion that turning to foreign experience in the context of the modern approach can give successful results.

For example, in the practice of Greece, there is a specialized penitentiary institution operating in the field of agriculture, prisoners applying here also pass the special commission without accepting the regime's discretion. Staying and working here also allows the prisoners to finish the sentence more quickly what stimulates them to labor.

This experience being effective, also should be used as a positive experience in terms of enabling a repeat offense to be reduced to large percentages after release from prison among the persons who have enough rehabilitated and gained occupation skills whom the society would accept. In our country, it would be advisable to apply this and other experimental models with consideration of their effectiveness.

The issue of involvement of convicts to labor was constantly raised in the Ombudsman's reports and appeals to the Ministry of Justice.

The latest information regarding the prisoners' involvement in labor provided by the Penitentiary Service stated that the establishment of production areas for the convicts to pay their personal needs by attracting publicly useful labor and earning certain wages was taken into account in the new prison under construction.

Custody conditions of persons detained in psychiatric institutions. During the visits, it was observed that the conditions of detention in Ganja, Shaki and Gazakh Psychiatric institutions were not favorable for the mentally ill persons, and there was a lack of medicines and food supply.

This should be noted that during the visits the funds allocated for food and medicine for the persons kept in the Psychiatric Hospitals of the Ministry of Health were not the same and that different figures were sounded every time.

Thus, for the last time, it was reported that food allowance per day was 3.6 - 5 manats, and for medicines, it was almost 0.22 - 0.60 manats which must be adjusted to existing prices and needs

Unfortunately, this was observed during the visit to the storage that the quantity of food, as well as of the medicine in compliance with the requirement was small.

The Commissioner is of the opinion that this is necessary to provide equal supply adequate to norms security and systematization of daily norms based a single division and normative document, making amendments to relevant decision of the Cabinet of Ministers and bringing this in compliance with international standards.

This should be noted that proposals on improving financial provision for rehabilitation or major repairs of buildings of psycho-neurological institutions, improvement of medical care of patients treated in these institutions, as well as strengthening staffing and improving their social protection were raised by the Ombudsman during the discussions of the state budget for 2019 at the Parliament, and before relevant bodies.

CHAPTER 4.

Legal Awareness

One of the directions of the Azerbaijani NPM's activity 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. 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.

In 2018, 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 state boarding houses, the Academies of different state bodies, law-enforcement bodies, temporary detention places, penal isolators of penitentiary institutions. The scheduled and continuous training 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 of employees working in the places which persons cannot leave on their own will, as well as the implementation of recommendations of this kind.

During meetings and receptions, legal awareness events held in Baku city and other towns and rayons of the country the legal awareness work was conducted with staff members of police bodies, penitentiary service, migration service bodies, education, social service and psychiatric institutions, the importance of special attention to ensuring human rights and freedoms and the activities carried out by the institution in order to implement the "National Preventive Mechanism for Prevention of Torture" were brought to attention.

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

Within the framework of visits to institutions which detained persons cannot leave their own will, the legal awareness work was conducted with administration and responsible employees of enterprises, the provided recommendations on further improving detention conditions, rendered medical services and documentation based on the national and international legislation, on the elimination of deficiencies were substantiated.

In the course of legal awareness-raising activities held during the year in prisons and penitentiary institutions, the innovations on legal reforms

carried out in the national legislation on the basis of the Decree of the President of the Republic of Azerbaijan dated February 10, 2017, prevention of the use of restrictions on the right to liberty of persons committing a crime and infringing the law, humanization of criminal prosecution and penal execution in this direction, existing experience in the field of gradually rejection from abandoning a person's isolation from society, carried out works and innovations were explained to the detainees and their questions were answered.

Within the framework of NPM, the fruitful cooperation has been continued with the Academy of Justice of the Ministry of Justice in the area of legal awareness-raising, as well as enhancement of knowledge and skills of the persons admitted to service in various directions. The teaching courses program of the educational institution included the topics related to the activity of the Azerbaijani NPM.

The lectures on "Ombudsman's activities in protection of human rights and as the National Preventive Mechanism" were delivered by the NPG members during the compulsory training course held at the Academy on the introduction of the professional activity of graduates admitted to service for the first time to the Penitentiary Service of the Ministry of Justice, the Judicial Expertise Center and the Main Medical Department.

The listeners were provided with extensive information on the reforms carried out in the national legislation of the Republic of Azerbaijan taking into account the initiatives and proposals of the Ombudsman, the Commissioner's activities in the field of human rights protection and as the NPM, as well as the provisions of the Constitutional Law on the Ombudsman were taught.⁵⁶

Designation of the country Ombudsman as the institution fulfilling the functions of the National Preventive Mechanism with regard to ensuring the implementation of the Optional Protocol to the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN OPCAT), regular visits conducted to country institutions which persons can not leave on their own will in order to carry out the activities more efficiently in this field, the recommendations and the status of their implementation with demonstrating examples from the experience of national, foreign and international organizations have been brought to the attention of the audience.

In the course of the lectures, it was stressed that Executive Order On improving work in the penitentiary system, humanization of the punishment policy and expansion of alternative punishments and procedural

⁵⁶<http://www.ombudsman.gov.az/az/view/news/1175/ombudsmanin-milli-preventiv-mexanizm-fealiyyeti-cherchivesinde-huquqi-maariflendirme-tedbirleri-davam-etdirilir>

enforcement measures not associated with isolation from society dated February 10, 2017, signed by the President of the Republic of Azerbaijan Mr. Ilham Aliyev, became a new stage in the process of reforming the efficient provision of human rights and its provisions on ensuring the right of the person to inviolability, prevention of the use of restrictions on the right to liberty of persons who have committed a crime and who have violated the law, humanization of criminal prosecution and penal execution in this direction, also on current experience in the field of gradually abandoning the practice of isolating a person from society were among the main topics at the live discussions environment.

In addition, the Istanbul Protocol, the SPT recommendations and the standards set out in the CPT General Reports that are the documents by the Office of the United Nations High Commissioner for Human Rights in the field of effective investigation of ill-treatment and penalties, as well as relevant national legal acts have been taught.

The listeners were given extensive information on the reforms in the national legislation of the Republic of Azerbaijan, taking into account the initiatives and proposals of the Ombudsman, The Commissioner's activities in the field of human rights protection and as the National Preventive Mechanism, approaches to treatment and investigation of detention conditions based on international standards.

Activities of the country Ombudsman in the field of human rights protection, as well as the NPM, were met with interest by the audience and their numerous questions were answered in detail.

At the initiative of the Ombudsman, the Children's Rights Month-long Campaign was traditionally held in our country from October 20 to November 20. In the framework of this month-long campaign the awareness events were held in Baku and rayons, including the boarding houses and Correctional Institution of the Penitentiary Service of the Ministry of Justice, and many juveniles were involved in legal awareness-raising activities.

The events continued at the environment of live discussions, the information was provided on existing international and national legislation in the field of child rights, rights and responsibilities set out in the UN Convention on the Rights of the Child, the Beijing Rules and Riyadh guidelines, protection mechanisms of these rights and preventive measures to be taken, children's numerous questions have been answered in detail, they were explained their rights and competences of the Commissioner and legal advice was given on the raised issues.⁵⁷

⁵⁷<http://www.ombudsman.gov.az/az/view/news/1139/ushaq-huquqlari-ayligi-cherchivesinde-novbeti-tedbirler-kechirilib>

During the year legal education and training within the framework of capacity-building activities were continued in the cooperation of the Ombudsman Office, UNICEF, Academy of Justice and Police Academy on “Justice for Children”, “Justice for Juvenile” addressed to judges, staffs of the prosecutor, police, justice and local executive authorities and social service agencies.

Realization of series trainings within the framework of this cooperation being also aimed at improving the skills on the basis of positive experience of foreign countries in this area assume high importance from the standpoint of an assessment of the impact of the reform of the juvenile justice system on children in conflict with the law, studying the existing challenges, the new approaches to the activities of the Commissions for the issues with the juveniles and protection of their rights at the local executive power bodies.

Representatives of UNICEF, Academy of Justice and Police Academy, as well as Head of the Department of the Ombudsman Office, Head of the National Preventive Group R. Rumzada, participated in the training as experts and presented presentations on juvenile justice.

The representative of the Ombudsman provided extensive information on the experience of providing the best interests of children based on the recommendations of the United Nations Committee on Child Rights, organizing the work with juveniles who display behavior in contrary to law and are under detention, behavior with children suspected of crime and procedural guarantees, the experience of foreign countries in this field, the practical application of international and regional standards, as well as the approaches based on the visits carried out within the frames of the Ombudsman’s activity as the National Preventive Mechanisms

In the course of trainings in Baku and regions such topics as the national and international experience on the subject, normative-legal acts, preventive measures to be taken on the basis of the UN Convention on the Rights of the Child, the Beijing Rules and Riyadh guidelines, Prevention of the use of restrictions on the right to freedom of minors who have committed a crime or have committed a violation of the law, humanization of criminal prosecution and penal execution in this direction, the experience in abandoning practice of isolating a person from society were touched upon and they were discussed widely in the context of live discussion.

CHAPTER 5.

PUBLIC RELATIONS AND INTERNATIONAL COOPERATION

In 2018, the exchange of information and experience with government agencies, local civil society organizations, including NGOs, regional and international organizations, foreign NPMs, ensuring mutual participation in the events, as well as organization of joint measures has further developed the activities in this direction.

During the mentioned period, both the public and the international community have been regularly informed of the activities of the Azerbaijani NPM.

A total of 94 press releases have been published in the media in 2018.

In total, 974 press releases on MPM activity were published in 2009-2018.

Press releases, NPM Reports, the information on the NPG composition, as well as 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.

The appeals and the other information addressed to the Ombudsman, including those received by 24-hour hotline, from NGOs, human rights defenders, lawyers, 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.

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

The relations of the NPM not only with state authorities, international institutions and non-governmental organizations but also with mass media in the field of prevention of torture have been further developed.

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. The 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, as well as during the meetings held with participation of relevant state bodies, 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 Ministry of Justice 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 was a participant in relevant events conducted during the reviewed period as a member of the Public Committee Election Commission under the Ministry of Justice of the Republic of Azerbaijan.

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

The Commissioner as the 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 different efficient meetings, holding joint events and participation of the Commissioner and the NPG members 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.

The Ombudsman's collaboration with the UNICEF Office in Baku was successful in the frames of international cooperation of the NPM, a number of joint activities and monitoring at the state childcare institutions were carried out.⁵⁸

Within the framework of this cooperation and also within the frames of the work carried out in the field of protection and promotion of children's rights, the Commissioner as a National Human Rights Institution widens her activity space as an independent monitoring mechanism on the Convention of the Rights of Persons with Disabilities, also on promotion and protection of rights of children with limited physical capacities.

Joint works realized within the frames of the NPM activity based on the joint monitoring carried out with the purpose of mutual cooperation, as well as the protection of children's rights in state-run boarding schools has been highly evaluated by the UNICEF Country Office.

At the meeting on the conclusions of the year necessary social services for children, personnel training in this field discussed and priorities of future

⁵⁸ <http://femida.az/az/news/79229>

cooperation, as well as the exchange of views on these institutions, were carried out.

Joint monitoring in state childcare institutions was priority in 2018 in collaboration of the Ombudsman with UNICEF, as well as their continuing in 2019 as a positive experience, has been included in the bilateral action plan.

Measures to be taken within the framework of action plan MPM activities being based on the provisions of the CRC, as well as the recommendations of the relevant UN treaty body will support the implementation of legal awareness activities in the communities, training of trainers in this area, training seminars, as well as joint monitoring at state childcare institutions, as well as the visits of the National Preventive Group.

The agreement creates new opportunities for monitoring with participation of the NPG of the Ombudsman of the opportunities for improved quality of services in everyday life of socially isolated children, as well as assessment of the needs of government agencies, law enforcement and local authorities working in the field of child rights protection and capacity building through trainings, protection of children's rights and their monitoring through involvement of civil society institutions and local communities in this process, expanding the relevant activity.⁵⁹

In 2018, the Commissioner took part in the General Assembly of the Global Alliance of National Human Rights Institutions (GANHRI) held at the UN Office in Geneva within the framework of the visit also related to the NPM activity, regional meetings and plenary sessions on priority issues of the European Network of National Human Rights Institutions (ENNHRI).⁶⁰

The UN High Commissioner for Human Rights and officials of other bodies, Ombudsmen of different countries, representatives of national human rights institutions and the organizations uniting them, international experts participated in the events and delivered speeches.

Within the frames of the visit, the Ombudsman and NPG members took part in the event organized by the European Network of National Preventive Mechanisms organized by the Association on Prevention of Torture (APT). The event, which was attended by the NPMs from different countries, was dedicated to topics such as exchange of experiences, effective organization of activities, organization and future cooperation in line with new activities and broad discussions were held. The Ombudsman shared her views within the frames of activity as the NPM activities and gave her proposals on future cooperation.

⁵⁹https://azertag.az/xeber/Ombudsman_tesisati_ile_UNICEF_arasinda_emekdasliga_dair_muqavile_imzalanib-1153817

⁶⁰https://azertag.az/xeber/Azərbaycan_Ombudsmanı_Milli_Insan_Huquqları_Tesisatları_nin_Qlobal_Alyansinin_Bas_Assambleyasında_istirak_edib-1140371

On the next day of the visit, the Ombudsman of Azerbaijan attended the General Assembly of GANHRI, the regional meetings the ENNHRI, plenary meetings on the topics regarding the elderly, persons with disabilities and internally displaced persons and migrants and exchanged views with the participants on these issues.

The Copenhagen Declaration was also adopted at the regional meeting of the European National Human Rights Institutions and, according to the document; the involvement of these bodies in the implementation of the decisions of the European Court of Human Rights was encouraged.

Particular attention was paid to the protection of the rights of the elderly among the priorities highlighted at the meetings held within the Assembly and a broad plenary session devoted to the role of National Human Rights Institutions was held and discussions on new targets were carried out.

Within the frames of the visit, the Commissioner held meetings and opinion exchanges with representatives of the Global Alliance of National Human Rights Institutions, the European Network of National Human Rights Institutions, as well as representatives of National Human Rights Institutions in America, Europe and Asia, including Turkey and Central Asia.

The NPG members took part in the regional conference held by the Penal Reform International in Tbilisi, Georgia, in partnership with Public Defender of Georgia, with the participation of NPM of the South Caucasus countries.

The conference was attended by Head of the Department on the Prevention of Torture of the Ombudsman's Office of Azerbaijan, Head of the National Preventive Group R. Rumzada and member of that group V. Heydarov.

According to the program, the speeches of the NPMs of the region's countries were heard; the activity of the Azerbaijani Ombudsman as the NPM has also been presented; comprehensive information on effective visits without prior notification to institutions that persons can not leave on their own will and their outcomes, legal analysis, proposals and recommendations for improving the legislation and activity in this direction, cooperation directions, as well as legal awareness measures.

The representatives of the Azerbaijani Ombudsman gave broad information on implementation of the Istanbul Protocol, the SPT recommendations and the standards set out in the CPT General Reports that are the documents by the Office of the United Nations High Commissioner for Human Rights in the field of effective investigation of ill-treatment and penalties, as well as implementation in national legislation, approaches of the Commissioner to the investigation of treatment issues and detention conditions basing on the international standards.

Alongside this, it was brought to the attention that the Order signed by the country President on February 10, 2017, became a new stage in the process of reforming the efficient provision of human rights and has made a significant

contribution to improvement of the country's experience in ensuring the right of the person to inviolability, prevention of the use of restrictions on the right to liberty of persons who have committed a crime and who have violated the law, humanization of criminal prosecution and penal execution in this direction, also to improvement of country experience in the field of gradually abandoning the practice of isolating a person from society.

At the regional conference, numerous questions put forward by the participants regarding the activity of the Ombudsman of Azerbaijan as the NPM were answered; discussions from the standpoint of the effective provision of human rights were effective in terms of the activity directions and cooperation of NPMs.

Copies and discs of the annual reports of the Ombudsman on the activity as the NPM were presented to Penal Reform International's South Caucasus Office within the framework of the conference.⁶¹

The 13th International Conference of National Human Rights Institutions in Marrakesh, Morocco, was attended in the frames of the NPM activity.

The Conference entitled "Expanding the civic space and promoting and protecting human rights defenders, with a specific focus on women: The role of national human rights institutions" was organized by the UN High Commissioner for Human Rights, the Global Alliance of National Human Rights Organizations and the National Human Rights Council of Morocco (CNDH).

The conference sessions were attended by UN officials, Ombudsmen of foreign countries, representatives of National Human Rights Institutions and their organizations, international experts who delivered speeches. The Azerbaijani Ombudsman was represented at the international conference by Head of the Department of Prevention of Torture of the Ombudsman Office, Head of the National Preventive Group R. Rumzada.

The role of National Human Rights Institutions in areas such as national policy and human rights, promoting human rights awareness and promoting best practices, protection of civil society and human rights defenders, gender perspectives and ensuring the participation of non-governmental organizations, partnerships and cooperation have been one of the main topics of the sessions and workshops

During the session held within the framework of the sessions, protection of civil society and human rights advocates, gender perspectives, legal awareness and human rights education were among the priorities recommended to the countries; and the experience of the Azerbaijani Ombudsman on issues was shared, as well as exchange views on new targets was carried out.

⁶¹<http://ombudsman.gov.az/az/view/news/1086/ombudsmanin-milli-preventiv-grupunun-uzvleri-tbiliside-regional-konfransda-ishtirak-etmishler>

It was noted that, on the initiative of the Ombudsman of Azerbaijan Elmira Suleymanova the Council of independent Experts is functioning at the Commissioner for Human Rights where various non-governmental organizations and independent experts, human rights defenders are represented and which has made a significant contribution to the analysis of the situation on human rights in the country, the improvement of national legislation, and the preparation of proposals for the implementation of international legal instruments.

This approach was the first country experience and has made a significant contribution to supporting the activities of NGOs, to establishing at state bodies the public councils consisting of civil society members, and the creation of a legal framework and legislation on public participation.

It was noted that, Azerbaijan Ombudsman Institution is an independent organization as the National Human Rights Institute based on the Paris Principles and under the mandate of the Commissioner, she uses all opportunities for the protection of human rights, the protection of the civilian environment, the promotion of human rights and the rule of law, and the support of civil society and is open to cooperation.

In the course of the visit, the views were exchanged with the representatives of the Global Alliance of National Human Rights Institutions, the European Network of National Human Rights Institutions, as well as representatives of the National Human Rights Institutions in Europe, Asia and America regions and cooperation on human rights issues has been discussed.⁶²

In addition to those mentioned, requests from international organizations regarding the activities of the Commissioner as the NPM within the framework of international cooperation were answered during the year, open approaches to information in this direction were demonstrated.

The NPM has received a request from the UN Working Group on Arbitrary Detention.

Information on the implementation status of the recommendations given as a result of the visit of the Working Group on Arbitrary Detention to Azerbaijan was requested.

Within the framework of the MPM activity, the information on the inquiries was developed and forwarded to the UN Human Rights Commissioner.

Another inquiry into the NPM activity was addressed to the Commissioner by the Working Group on Discrimination against Women in Law and Practice. The inquiry of the Working Group on Discrimination against Women in Law and Practice has been linked to women deprived of liberty in the country.

⁶²<http://www.ombudsman.gov.az/az/view/news/1126/azerbaycan-ombudsmaninin-numayendesi-milli-insan-huquqlari-tesisatlarinin-13-cu-beynelxalq-konfransinda-ishtirak-etmishdir>

The questions included in the questionnaire were answered based on the country experience and the NPM activities of the Commissioner and the information was sent in an appropriate manner.

The next inquiry addressed to the Commissioner within the UN has been sent by the Special Rapporteur on the elimination of discrimination against persons affected by leprosy and their family members.

Within the framework of the NPM activity, the inquiries have been developed and the inquiry of the Special Rapporteur on the elimination of discrimination against persons affected by leprosy and their family members was replied to.

During the year Commissioner held several meetings with representatives of international organizations. During these meetings, the guests were closely acquainted with the activities of the Ombudsman, including NPM, and discussed prospects for joint cooperation.

The Commissioner has received the Senior Human Rights Advisor for the South Caucasus of the United Nations High Commissioner for Human Rights, Vladimir Shkolnikov and the Head of the OHCHR country Representative, Kamran Bagirov, priority directions of cooperation were discussed.

During the meeting at the Ombudsman Office with the UNICEF Country Representative Edward Carwardine, the Commissioner noted that effective cooperation was established with the UNICEF, joint activities and important projects were implemented, a bilateral agreement on the cooperation for 2018-2019, which also considers support to the NPM activities, has also been signed.

The Commissioner has received Simone Haeberli, Deputy Regional Director of the Swiss Cooperation Office for the South Caucasus, and gave detailed information on the establishment and operation of this institution in Azerbaijan. Simone Haeberli informed about the activities of the organization represented in the South Caucasus, as well as the relevant projects they have implemented and expressed interest in future cooperation.

The Commissioner received Amr Ibrahim Taha, Senior Regional Liaison and Policy Officer of the IOM Regional Office for Southeast Europe, Eastern Europe and Central Asia in Vienna for 20 countries, responsible person for “Global Compact” and Serhan Aktoprak, Chief of Mission in IOM Azerbaijan; views were exchanged on effective cooperation on migration and rights of migrants, detailed information was provided to the guests on the activities carried out in this field within the activity of the Commissioner as the NPM and prospects of mutual cooperation were discussed.

CHAPTER 6.

PROPOSALS AND RECOMMENDATIONS

The Commissioner as the NPM in order to analyze the results of the activities in 2018, to ensure the effective provision of the rights of detainees recommends *the following*.

Regarding the normative legal acts:

1. Reviewing nutrition norms of citizens in the educational institutions, hospitals, other institutions of social sphere (*Cabinet of Ministers*)

2. Inclusion to the Law of the Republic of Azerbaijan “On the Ensuring the Rights and Freedoms of Persons Detained in Detention Facilities” the norm on the release of detainees to short-term visits within the country beyond the boundaries of the detention facility (in connection with the serious illness that threatens the death or life of their close relatives, etc.) (*Milli Mejlis*);

3. Preparation of the Concept for the Probation Service activity;

4. Prevention of the release in mass media of information and images on the detained or arrested persons without the relevant court decision in force;

5. Widespread application of the Mediation Institute model that is widely used in the practice of foreign countries and used in criminal prosecution;

6. Improving the rules for conducting proceedings against minors in the Criminal Procedure Code (CPC 428-435) in line with the UN Convention on the Rights of the Child and international instruments in the field of child rights. (*Milli Mejlis*).

Recommendations to the Ministry of Internal Affairs

1. Taking measures to provide police child inspectors with technical means;

2. The transfer of persons detained in the TDP and or arrested to the investigation isolator within timeframes under the requirements of the law, enhancing control over the involvement of medical staff and documentation;

3. Broader promotion among police officers of the Law of the Republic of Azerbaijan “On the Rights and Freedoms of Persons Detained in Detention Institutions” and monitoring of the implementation of the law;

4. Improving the work on the provision with material and household and hygienic means of the persons detained in the TDPs at the state expenses in compliance with the legislation;

5. Continuing to measures on improving the detention conditions in TDPs;
6. Elimination of the cases of carrying out the medical examinations formally in some TDPs;
7. Elimination of shortcomings in the conduct of relevant registrations;
8. Training and involvement of social workers, psychologists in the preventive measures taken to prevent crime.

Recommendations to the Ministry of Justice

1. Improvement as last necessity measure of the duration, the limits and bases of the application of special measures enshrined in the Instruction on “Security measures in the penitentiary system of the Republic of Azerbaijan and the rules of their application” in compliance with the UN Standard Minimum Rules for the Treatment of Prisoners, European Prison Rules, as well as with the CPT and SPT recommendations.

2. Expansion of the activity of the Probation Service of the Ministry of Justice, the preparation and implementation of rehabilitation and social adaptation programs in which former prisoners will be involved, along with those who still serve their sentence in order to carry out effective control over the execution of punishments not related to isolation from society and to improve the efficiency of governance in this field;

3. Acceleration of construction works in penitentiary institution for female convicts built in Zabrat settlement of Baku, as well as juvenile correction institution, prison built in Umbaki settlement, penitentiary complexes built in Ganja and Lankaran;

4. Increasing attention to the work of prisoners in the correctional facilities, the creation of new work places, the implementation of projects and the specialization of institutions themselves in terms of production;

5. Improving the functioning of the penitentiary institutions of station type and review the issue of their joining, if necessary

6. Further updating the material and technical base in the Penitentiary Institutions, increasing the responsibility of the staff.

7. Taking relevant steps in the direction of elimination of delays in delivering sentences to prisoners at the facilities of the Penitentiary Service, termination of the time frames for this and solving the related problem of violation of the right to appeal;

8. Implement complex measures to prevent self-injuries.

Recommendations to the Ministry of Health

1. Reconstruction or major repair of buildings of psycho-neurological institutions that do not meet modern international standards, improving the medical care of these patients, strengthening the social protection of staff working there;

2. Promotion of abandoning the practice of isolation of patients in the psychiatric hospitals;

3. Improving documentation in psychiatric hospitals, solution of needs in creation of worship and meeting rooms, telephone booths, library, organization of regular contacts with their families, socialization of enterprises;

4. Taking relevant measures to carry out public oversight of psychiatric institutions.

5. Conduction of regular monitoring in psychiatric institutions for the provision of the rights of patients.

Recommendations to the Ministry of Education

1. Reorganization of the activities of open and closed type educational institutions in terms of prophylaxis of juvenile delinquencies based on the requirements of legislation;

2. Conducting trainings on modules in the framework of the UN Convention on the Rights of the Child, broad and interactive teaching of issues related to the prevention of and combating ill-treatment, child rights and their protection mechanisms, children in conflict with the law and their legal status;

3. Implementation of major overhaul of some boarding schools to improve detention conditions;

4. Expanding the measures for the effective organization of leisure time for children living in the state-run childcare institutions.

Recommendations to the Ministry of Labor and Social Protection of Population

1. Implementation of complex programs in the field of rehabilitation and social adaptation of persons released from penitentiary institutions, development of rendered social services;

2. To strengthen the activity in the direction of solving the employment problem with the purpose of social adaptation of the persons released from PIs, application of a new approach and foreign experience in this field;

3. Development and implementation of rehabilitation and social adaptation programs on the basis of mutual cooperation with the Ministry of Justice Probation Service;

4. Realization of the habilitation programs with the purpose of enhancing free abilities of a person with disabilities to live by maximizing his or her existing potential in the institutions which persons cannot leave on their own will;

5. Providing appropriate staff units on implementation of effective programs in Social Service Institutions, especially in rehabilitation and social shelter targeted institutions, as well as boarding houses (Social Worker, Psychologist, Logopedist, etc.), increase of their wages;

6. Bringing the conditions of detention of the Elderly persons and national legislation in this field in compliance with the “United Nations Principles on the Elderly” and other international standards;

7. Providing boarding houses, social service institutions, especially in rehabilitation and social shelter targeted institutions that are being formed recently (Social Shelter for the persons over 18 without a living place at the State Social Protection Fund under the Ministry of Labor and Social Protection of Population and Social Asylum and Rehabilitation Institution for squalid, homeless and socially dangerous minors) with social workers, logaoedic and other appropriate staff units, increasing the funds allocated to them, their wages;

8. Support for the reorganization of open and closed-type special educational and training institutions as rehabilitation and correction centers on the basis of modern international practices and norms from the standpoint of preventive measures and prophylaxis of juvenile delinquency based on national and international legislation;

9. Support and practical application of individual programs for the re-socialization of persons deprived of their liberty for a long time, as well as reorganization of elementary secondary education and vocational training for convicts in penitentiary institutions on the basis of modern requirements.

Recommendations to the State Migration Service

1. Establishing a telephone call boost in the Yevlakh District Center for Detention of Illegal Migrants to ensure the rights to phone conversations of foreigners and stateless persons who placed in this Center, creation of a medical center there;

2. Increasing the number of female employees in the Detention Center for Illegal Migrants;

3. Provision of Yevlakh District Detention Center for Illegal Migrants with specialist staff of physician and psychologist.

STATISTICAL DATA

Diagram 1. The number of institutions visited by the NPM

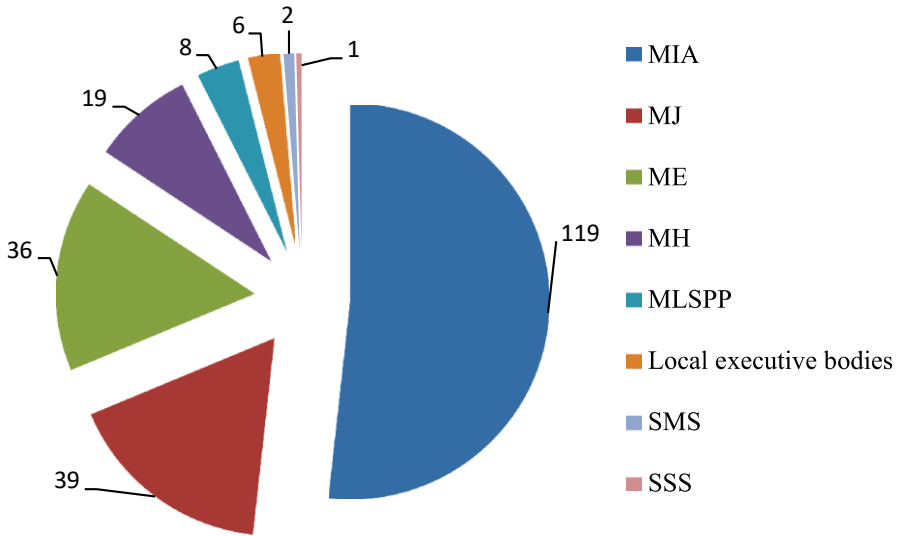


Diagram 2. The visits conducted by the NPM in 2018

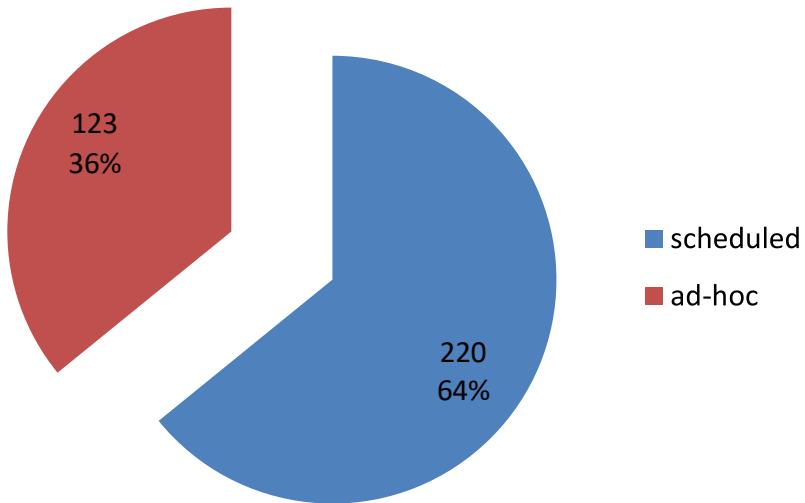


Diagram 3. The number of visits of NPM in 2018 (per institutions)

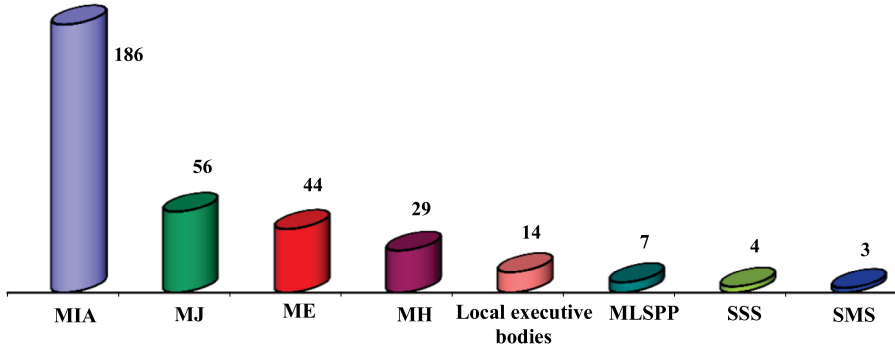


Diagram 4. The number of visits carried out by the NPM (per years)

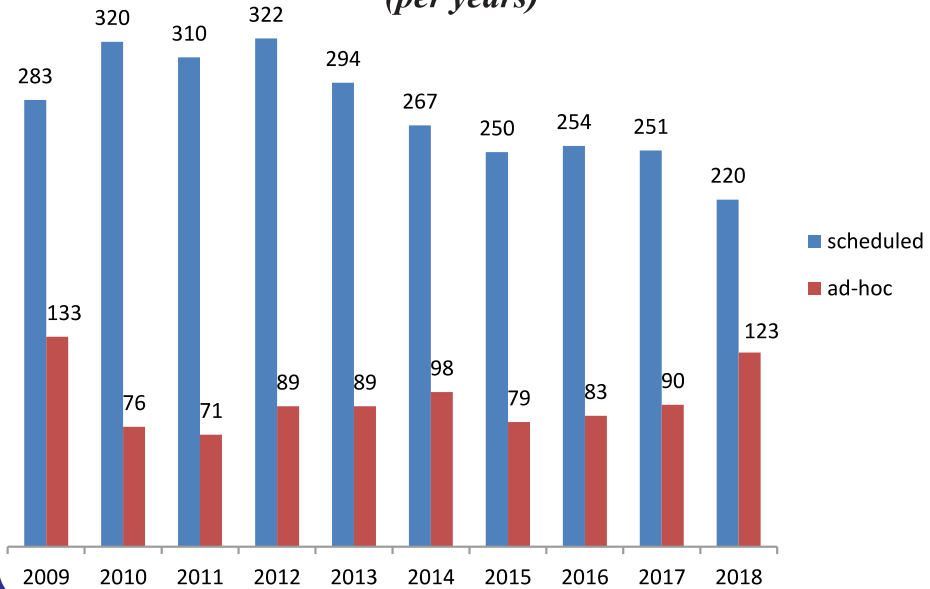
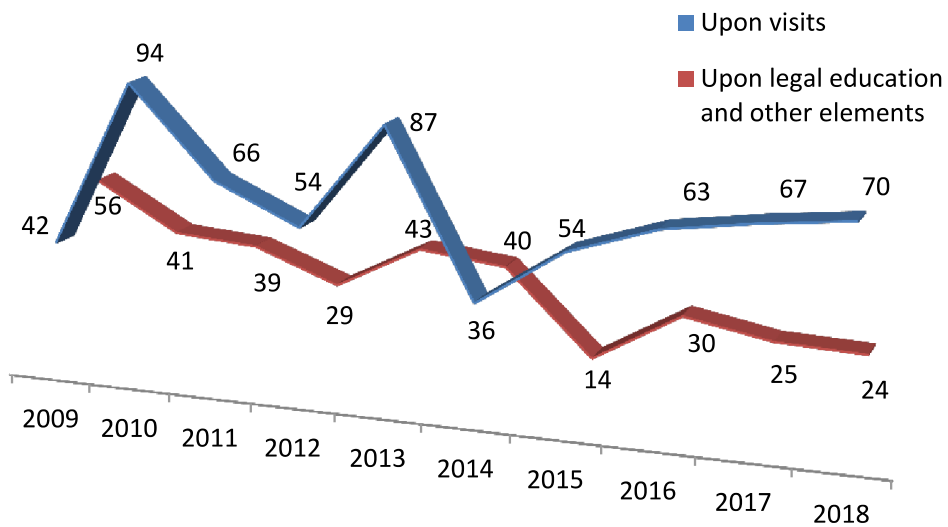


Diagram 5. The number of press releases of the NPM (per years)



**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.