



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

**2021 REPORT**

**on the National Preventive Mechanism Activities  
against Torture**

**Baku - 2022**

The report provides information on the activity, proposed recommendations and suggestions given by the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, carrying out national preventive mechanism, derived from the United Nations (UN) Convention against Torture, and Other Cruel, Inhuman, or Degrading Treatment or Punishment (*hereinafter* the Torture Convention) for the period of 2021 year.

While functioning the national preventive mechanism activities of the Commissioner the recommendations and suggestions given by the Committee for the Prevention of Torture (CAT), the Subcommittee on Prevention of Torture (SPT), European Committee for the Prevention of Torture (CPT), the Committee on the Elimination of All Forms of Discrimination (CEDAW), the Committee on the Rights of the Child (CRC), the Committee on the Rights of the Child (CRPD), and recommendations to the periodic reports of the State of Azerbaijan made by the UN Human Rights Council Universal Periodic Review (UPR) Working Group have been considered.

The information, prepared on the basis of the analyses of the findings of the visits, statistical data, as well as the Optional Protocol to the Torture Convention were attached as Annex to the Report.

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## FOREWORD

According to Article 46 of the Constitution of the Republic of Azerbaijan, everyone has the right to protect his/her honor and dignity. The dignity of a person is protected by the state. No circumstances can justify the humiliation of the dignity of a person. The third part of this Article clearly specifies that no one may be subject to torture, degrading treatment, or punishment. Medical, scientific, and other experiments may not be carried out on any person without his/her consent. As it can be seen, the absolute and imperative prohibition of torture is a firm stance of both the Azerbaijani state and the Azerbaijani people as the adopting parties of the Constitution.

The Torture Convention, adopted by the United Nations on the 10th December of 1984, and consented to be bound by Azerbaijan in 1996, was recognized as the international instrument that regulates 'specialized', complex, and systematic issues related to torture and ill-treatment. Article 1 of the Convention broadly defines torture, as 'any act by which a person is inflicted severe pain or suffering, whether physical or mental, or intimidating', specifying the purposes and specific subjects of the crime as well as the intentional commission of the act as a condition.

In Article 17 of the Convention, the UN Committee against Torture was established to protect against tortures, and other cruel, inhuman, or degrading treatment and punishments and increase the efficiency of the fight against them. The Committee may accept reports on tortures and ill-treatment submitted by the State Parties, conduct secret investigations, and include the findings of the investigations. In general, the State Parties to the Convention take effective legislative, administrative, judicial, or other measures to prevent acts of torture in any territory within their jurisdiction. It must be specifically emphasized that under no exceptional circumstances, whether it is a state of war or danger, internal political instability, or any other extraordinary conditions, the official position or the order of the state body cannot justify the infliction of torture. On 18 December 2002, the UN General Assembly adopted the Optional Protocol to the Convention against Torture (OPCAT). The key requirement of the OPCAT is to create a mechanism for conducting regular visits implemented by independent international and national institutions to places of deprivation of liberty (any form of detention or imprisonment or the placement of a person in a public or private custodial setting that that person is not permitted to leave at will by order of any judicial, administrative or other authority) in order to prevent tortures. The creation of mechanisms for independent and regular visits carried out to monitor the treatment of detainees and detention conditions in all places of deprivation of liberty as the most effective way of preventing torture is the central idea of the document in question. According to the OP, international and national institutions granted with a preventive mandate – Subcommittee and a National Preventive Mechanism are created. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman, or Degrading or Punishment (SPT), established at the international level is a new treaty body. The Republic of Azerbaijan ratified this OP on the 2nd December 2008

and the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was designated as an institution to implement the functions of the national preventive mechanism (NPM) as stated in the noted document by the Presidential Order dated 13 January 2009.

In the past years, the Ombudsman has implemented the national preventive mechanism functions, and built her activities on the principles of openness, and transparency and confidentiality.

Also in 2021, the execution of visits, the legal analytical work, legal awareness, and cooperation with state authorities, civil society organizations (CSOs), the media and international organizations have formed the basis of the NPM activities. The proposals have been prepared towards improving the existing legislation through the demonstration of a practical approach, and recommendations have been addressed to various government institutions.

The issues mentioned in this report have been thoroughly covered.

We invite readers to carefully familiarize themselves with the report and welcome any suggestions related to it. We thank you in advance.

**Sabina Aliyeva**

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of the Republic of Azerbaijan*

## LIST OF USED DEFINITIONS AND ACRONYMS

**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

**Place of deprivation of liberty** – any place where a person is not permitted to leave at own will or can be detained

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

**MOCDMIA**- Main Organized Crime Department of the Ministry of Internal Affairs

**MDCDMIA**- Main Directorate for Combating Drugs under the Ministry of Internal Affairs

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

**CPT**- European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

**CCP**- Code of Criminal Procedure of the Republic of Azerbaijan

**CAO**- Code of Administrative Offences of the Republic of Azerbaijan

**UN** – United Nations

**BPDF** – Baku Pre-Trial Detention Facility

**PI** – Penitentiary institution

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

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

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

**OPCAT** – Optional Protocol to the Convention against torture, and other cruel or degrading treatment or punishment

**DCAAP**- Detention Center for Administratively Arrested Persons

**SPT** – United Nations Subcommittee on Prevention of Torture and Inhuman or Degrading Treatment and Punishment

**SMS**-State Migration Service of the Republic of Azerbaijan

**CAT**- United Nations Committee against Torture

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

**II**-Investigation Isolator

**MM**- Mass media

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

**NPG**- National Preventive Group of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan

**NPM**-National Preventive Mechanism against Torture, specified under the OPCAT

**TDP**- Temporary detention place / Place of temporary detention

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

**PU** – Police Unit

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

**DPO-** District Police Office

**DPD-** District Police Department

**CDPO-**City District Police Office

## **Chapter 1**

### **National Preventive Mechanism under the OPCAT**

#### **1.1. The OPCAT requirements**

In 2021, the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan continued its work as an institution implementing the functions of the national preventive mechanism (NPM) as specified in the OP.

As is well-known, the purpose of the OP is to develop an implementation mechanism for conducting visits to places of deprivation of liberty by independent international and national institutions to prevent torture. The OP underlines the significance of constructive dialogue and specifies a preventive-avoidance attitude rather than a reactive approach to regulated attitudes. The innovativeness of the OP is also evident in the fact that it does not reflect any new right or standard or the restoration of violated rights, but rather the prevention of violations of an existing standard, namely the right to freedom from torture.

The main idea of the noted document is to develop a system of independent and regular visits to monitor the treatment standards and detention conditions of all those who are held in places of deprivation of liberty as the most convenient method of preventing torture. According to the OP, international and national institutions, having a preventive mandate, which include the Sub-Committee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) are set up. The SPT is a new treaty body in the UN system.

In compliance with Article 17 of the OP, the NPM, which shall be maintained, designated, or established by each State Party at the latest one year after the entry into force of the present Protocol or of its ratification or accession under the respective norm, conducts regular visits to places where persons are deprived of their liberty at the national level to monitor the treatment issues and detention conditions.

The NPM mandate covers, at a minimum, the following:

- to regularly examine the issues related to the detainees;
- to make recommendations to the relevant authorities in a view to improving the treatment and detention conditions of detainees and preventing torture, taking into account the relevant UN norms;
- to make recommendations and observations concerning existing or draft legislation;

The guarantee of the functional independence of the NPMs as well as the independence of their personnel is the main precondition to fulfill the mandate.

The OP grants the NPMs the following main powers:



- to access to all information concerning the number, treatment, and condition of persons deprived of their liberty in places of detention, as well as the number of places and their location;
- to access to all places of detention and their installations and facilities;
- to have private interviews with the people deprived of their liberty without witnesses, as well as with any other person who may supply relevant information;
- to choose the places they want to visit and the persons they want to interview without any hindrance;
- to have contacts with the SPT, to send it information, and to meet with it.

## **1.2. National Legislative Framework**

The Republic of Azerbaijan signed the OP on September 15, 2005, and ratified it by Law dated December 2, 2008.

Since the relevant law has been officially published, that is, since January 15, 2009, the OP has entered into force in relation to Azerbaijan.

By the Presidential Order of the Republic of Azerbaijan dated January 13, 2009, the Commissioner for Human Rights (Ombudsman) was designated as an organization responsible for carrying out the national preventive mechanism functions as stated in the OP.

By making additions and amendments to the Constitutional Law, the scope of the power of the Ombudsman, as well as its independence were brought into conformity with NPM standards as stated in the OP; also, the transparent procedures for the establishment of the NPG, and the requirements for its candidates were also identified, along with matters on guarantees for their rights and impunity.

According to the Constitutional Law, the Ombudsman and NPG have the right to access to any state and municipal body, military units, police stations, temporary detention places, investigation isolators (pre-trial detention facilities), penitentiary institutions, military guardhouses, psychiatric institutions 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, and 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 persons mentioned above; to prepare acts and document the process and the results of the actions undertaken without hindrance and prior notification. The power of the Commissioner to provide relevant recommendations to the competent authorities and to receive responses to these recommendations within the identified time limits is also proclaimed by the abovementioned law.

In the last period, the legislative acts were improved, and the powers mentioned above, which were granted to the Commissioner and the NPG were also identified in the

legal and normative acts in a timely manner with a view to effectively organizing their work.

Under the OP, the Commissioner has considered the recommendations made by the UN Human Rights Council UPR Working Group to Azerbaijan's periodic reports, as well as the recommendations and suggestions of the CAT, SPT, and CPT to organize the NPM work effectively.

### 1.3. NPM Activity Directions

The activity of the Azerbaijani NPM encapsulates the following four main directions:

- **Preventive visits** – refer to visits carried out in a regular, scheduled, and unscheduled manner and without prior notice to places where persons cannot leave on their own will;

- **Legal analysis** – refers to theoretical and practical analyses of the relevant work, information, recommendations, and suggestions, the existing and draft legislative acts; summing up the results and producing the relevant recommendations;

- **Legal education** – is the process of organizing legal education operations for the HRCA staff, NPG members, employees of the places, where persons cannot leave on their own will, persons held in those places and student-attendants of the relevant education institutions and academies as well as preparing and dispensing visual materials to promote activities for the prevention of torture;

- **Public affairs and international cooperation** – refer to the exchange of information with national, regional, and international organizations, as well as with NPMs of other countries, mutual participation at events, the organization of joint events, and the promotion of NPM activities in the media.

## **Chapter 2**

### **NPM Activity and Preventive Visits**

#### **2.1. Organization of Preventive Visits**

According to Article 20 paragraph (a) of the OP, to enable the national preventive mechanisms to fulfill their mandate, the States Parties undertake to provide information on the number of persons deprived of their liberty in places of detention, as well as the number of places and their location, as stated in Article 4 of the OP.

Such information is obtained from the relevant public institutions based on the Ombudsman's request, and based on those requests, the annual work plan is drafted and the visits are conducted accordingly.

If it is deemed necessary at the end of the year, the information for the next year is updated by making clarifications with the relevant authorities.

The preventive visits, which may be divided into two groups: scheduled and ad-hoc visits, are carried out without prior notice.

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

The scheduled visits are conducted in line with the annual plan approved by the Commissioner. The draft of the annual plan for the upcoming year is discussed by the NPG members at the end of each year, the outcomes are recorded, and the approved plan is presented to the Commissioner for approval. The confidentiality of the annual work plan is critical for the effectiveness of the visits. Therefore, confidentiality is ensured by the NPG members.

The sequence of inclusion of this or another facility into the work plan and the repeated visits there are carried out on the basis of the specificity of the type of that particular facility, records of its general condition and treatment in previous years, its territorial compatibility, as well as the information taken from analyses of the complaints received by the Commissioner.

The length of visits depends on the size of the institution, the number of persons in the place of deprivation of liberty, the type of facility visited and other specificities, as well as the number of NPG members.

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

The ad-hoc visits are mainly conducted to follow-up on the implementation status of previously given recommendations, to prevent persecution of those who provide information to NPG members in one form or another, as well as analyses of the information given by the persons about the place of detention, where s/he was previously held, and complaints received by the Commissioner or hotline (Call Center), to investigate

the information reported to the NPG members, to check on site the information spread through media and other issues interesting to the preventive group members, and also in other cases when the Commissioner is deemed necessary.

## 2.2. Conducting visits

The effectiveness of the visits mainly requires three phases. So, taking account of that, the NPM of Azerbaijan conducts its visits at the three-stages mentioned below:

- **First phase**-preparation;
- **Second phase**-conducting a visit;
- **Third phase** - post visit (follow-up) phase

The preparation phase usually takes two working days, including collecting the necessary information, identifying the objectives of the visit, and determining the personnel of the monitoring delegation members.

During this phase, in the process of collecting necessary data, the information received during previous visits or taken from other sources, the applications received by the Ombudsman, the sources spread through media and social networks, as well as the national legal and normative framework regulating the activity of the institution to be visited, and international standards are analyzed.

The objectives of a visit are determined on the basis of the general assessment of detention conditions and treatment standards, the study of specific cases related to detention conditions and treatment (e.g., the institution of disciplinary measures, the quality of health services, etc.), follow-up activities, such as checking the status of removal or failure to remove the findings of previous visits and the implementation of the recommendations previously made, and the definition of the scope of the questions of special importance and other issues.

While preparing for the preventive visit, the composition of the monitoring delegation is determined based on factors such as the number of members, their specialization, sex, etc., and other factors depending on the objective of the preventive visit. The list of facilities to be visited, questionnaires, templates for the interview records with prisoners, questionnaire templates, and others are prepared.

Conducting a visit encompasses a number of stages, including:

First, an initial talk is held with the administration of the facility; during such a conversation, group members introduce themselves and explain the purpose of the visit. Afterwards, some general information about the facility is obtained.

After the initial talk with the administration of the facility, group members monitor the area of the facility. In the course of this, conditions of detention in the facility, including the condition, size, capacity (occupancy), actual location, lightning, ventilation, and furniture supply of its building, individual cells or rooms, personal hygienic and sanitary conditions, nutrition issues, access to medical care, etc., are evaluated.

Later, the documentation is reviewed, and interviews with the persons deprived of their liberty are held in a confidential manner. Such interviews mainly depend on the objective of the visit. Taking account of the situation, the NPG members can determine the technique of the questioning or make corrections to the preliminary agreement on the spot.

A talk with the facility staff is also an essential part of a visit. The NPG members organize interviews with the staff members in charge in order to evaluate their approach to treating people deprived of their liberty. In some cases, the NPG also uses special questionnaires prepared for the facility personnel along with the interviews.

At the end of the visit, the NPG members held a final talk with the chief of the monitored facility to alert him of the findings. The administration is also informed about the issues that can be fixed locally, and relevant recommendations are given. Furthermore, the administration is informed that the findings will be reported to the higher-instance authority.

The objective of the NPM is not only to conduct a visit to places of deprivation of liberty but also to take measures for improving the treatment and detention conditions of persons held there. That is the reason why the NPM of Azerbaijan takes the view that the post-visit phase is more critical than the visit itself.

Therefore, after the visit, a final report on the findings is prepared, and the relevant bodies are given recommendations on how to improve treatment standards and detention conditions.

Typically, when deemed necessary by the NPG members, a repeat visit is appointed and conducted to the facility shortly after the previous one to follow-up on the implementation of recommendations previously given.

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

As part of the Ombudsman's NPM mechanism, 53 scheduled and ad hoc visits have been conducted to police authorities, including police departments and units, and temporary detention facilities.

Private talks with persons detained in these facilities were held; their detention conditions, as well as the allegation of ill-treatment while being brought under custody or throughout their detention period, were evaluated.

The purpose of the visits was to investigate the situation regarding ensuring the rights and freedoms derived from the requirements of the Constitution of the Republic of Azerbaijan, the Criminal Procedure Code, and other relevant normative legal acts of persons detained or imprisoned, the provision of legal counsel immediately after detention, informing or failing to provide information to family members about the detention, medical care, nutrition, medication, and heating supply, and other matters.

During the visits, the Ombudsman and NPG members held meetings with the management and personnel of the district (city) police authorities, legal awareness

activities were conducted, and the necessity of increasing attention to ensuring human rights and freedoms was emphasized.

Within the framework of the NPM's activities, the Ombudsman held a visit to the *temporary detention facility of the Main Organized Crime Department of the Ministry of Internal Affairs*.

The various areas of the detention facility have been inspected, and the conditions of detention and the availability of resources for ensuring the rights of detainees have also been investigated. It was found that there is a need to improve the conditions enabling detainees to make phone calls and to practice their religious beliefs.

During the review of the documentation, it was found that the relevant registration books were not delivered on time and that there were discrepancies in the registration times.

In the course of the visit, there was one detainee in the facility with whom the Ombudsman had a confidential meeting, showing interest in his treatment and the situation regarding the provision of his rights.

At the end of the visit, recommendations were made to the relevant administration and the management of the temporary detention facility concerning the elimination of identified shortcomings related to documentation and detention conditions.

The Ombudsman's NPG members conducted a visit to the *Detention Center for Administratively Arrested Persons of the Ministry of Internal Affairs*.

On the day of the visit, based on the random checks of the cells, the facility where 157 people were detained, was monitored. The detainees held there have been interviewed, and confidential meetings were held with randomly selected people. The complaints were mainly related to court decisions and the allegation of ill-treatment by the district police authorities.

During the monitoring visit, based on the request of H.A.'s lawyer, a confidential meeting with him was held. During the meeting, that person said that he was detained by the Main Organized Crime Department of the Ministry of Internal Affairs and complained about the treatment while being detained.

Another two persons, N.H. and K.B., who were interviewed in this facility, reported that when they were detained at Police Unit No. 15 of the Sabunchu District Police Office, they were subjected to rude treatment. They complained that the conditions of detention and food provision were not satisfactory and that there was overcrowding at this unit.

To examine and investigate the circumstances reflected in the complaint, the Prosecutor General's Office has been requested.

At the end of the visit, recommendations regarding documentation and detention conditions were made.

Monitoring visits were conducted to the *temporary detention facility of the Binagadi District Police Office and the Police Units No. 4 and 5 of the MIA*.

During the visit, the NPG members inspected the cells and administrative rooms of the temporary detention facility. The existing situation with the organization of medical

services, nutrition, outdoor exercise, visits, and phone conversations, as well as documentation was investigated.

11 people detained at the temporary detention facility were interviewed, and some of them complained about full body searches upon their admission to the facility.

It was observed that there is no prayer room in the detention facility, and the visitation rooms are not being used.

After a while, another follow-up visit was conducted to the facility, and 17 detainees were received confidentially to investigate the issues of treatment and the situation with ensuring their rights.

During the visit and conversations with the detained persons, it has been found that there are shortages related to the timely changing of bed linens, the provision of soap and personal hygiene items, ensuring the right to make phone calls, and providing medical assistance in the detention facility.

It was also found that the registry books for the belongings of detainees in the facility and for the information on the release of detained or arrested persons from cells were not properly copiously bound and sealed.

During the visit conducted to *Police Unit No. 4 of the Binagadi District Police Office*, deficiencies related to documentation were found. Thus, while examining the relevant registry books, it was revealed that the arrival date and time of admission of individuals were recorded differently by changing them. Some records did not contain dates, while in one admission, the reason for a person's release was not mentioned. In addition, it was noted that old registry books were not submitted to the archive.

Under the NPM mandate of the Ombudsman, visits were carried out to the *Nizami District Police Office of the Ministry of Internal Affairs*, as well as *Police Units No.17 and 18* of that police office.

During the visits, confidential interviews were conducted with 5 detainees held in the temporary detention facility of the Nizami District Police Office and one detainee in Police Division No. 18. Overall, the NPG members provided relevant recommendations for improving the detention conditions.

The NPG members conducted planned visits to the *temporary detention facility of the Surakhani District Police Office*, as well as *Police Units No. 30 and 32 of the Surakhani District Police Office*.

During the visit, it was observed that, in order to improve the detention conditions, comprehensive repair work was being carried out at the temporary detention facility. The noise, dust, and similar factors associated with the repair work and not transferring them elsewhere can be considered violations of detention conditions, as they may negatively impact persons' detention.

In order to investigate the treatment issues, confidential conversations were held with 5 detainees in the *temporary detention facility of the Surakhani District Police Office*. The majority of them expressed dissatisfaction with the quality and quantity of the provided meals. Among the detainees, E.N. stated that, despite 5 days have passed, he was not allowed to use the shower.

It was observed that S.Y., despite being under administrative detention for 15 days, was not transferred to the temporary detention facility for administratively arrested persons under the Ministry of Internal Affairs according to legal regulations. The NPG members raised the issue of delays in the transfer of administratively arrested persons, but the delayed release of COVID-19 test results was taken as a reason.

Furthermore, it was found that detainees were not provided with bedsheets, and shortages were found in the supply of initial aid medicines in the medical room of the temporary detention facility.

While examining the documentation, it was observed that there were shortages in some registry books, including a lack of admission and detention documents of a person brought to the temporary detention facility according to the Criminal Procedure Code, failure to conduct proper registration for some persons upon their release from the temporary detention facility, and gaps in the "Registration Journal of Medical Examinations and Assistance."

It should also be noted that during the review of arrest reports, no signatures of lawyers were found.

It has been determined that there is a need to increase the knowledge of the temporary detention facility's staff about relevant internal regulations and conduct awareness-raising activities in this regard.

The detention facility in *Police Unit No.30* was inspected, and registry books were checked. It was found that the detention facility is in need of repairs, there are deficiencies in registration, registry books contain alterations, and registration records are incomplete.

During the visit to *Police Unit No.32*, there was no detainee in the facility.

The registry books were in order but contained some erasures and corrections.

At the end of the preventive visits, recommendations were made concerning documentation and detention conditions.

The NPG members conducted a planned visit to the *temporary detention facility of the Astara District Police Department*. During the visit, cells, the interrogation room, the visitation room, the medical room, the prayer room, the kitchen, and shower areas were inspected. As well, the current situation with the organization of healthcare services, nutrition, parcel service, outdoor exercise, visitation, and phone calls, as well as documents, were examined.

During the visit conducted to the *temporary detention facility of the Astara District Police Department*, there were 6 administratively arrested persons. Private talks were held with each of these detainees to inform them about their rights and duties and about the Ombudsman's competence in detail.

The detainees were mainly dissatisfied with the decisions made by the Astara District Court.

The detainees did not complain about their detention conditions and treatment issues.



While inspecting the cells at the temporary detention facility, it was observed that there were no information boards on the detainees' rights and duties. The cells No. 1 and 2 were dirty with household waste, food remnants, and cigarette butts, remained presumably from previous times.

During the visit to the facility, it was also seen that the necessary anti- COVID-19 pandemic measures were not being properly implemented, and that there was a lack of sanitary and hygienic means.

At the end of the visit, discussions were held with the head and staff of the temporary detention facility. In accordance with national and international legal standards, it was recommended how to improve detention conditions and documentation, to promptly eliminate the identified shortcomings, and to ensure adherence to all sanitary and hygienic rules, particularly during the special quarantine period and in the context of the COVID-19 pandemic.

The NPG members carried out a scheduled visit to the *Bilasvar District Police Department's temporary detention facility*.

In the course of the visit, private conversations were held with 11 administratively arrested persons to assess the detention conditions and inform them of their rights and responsibilities.

The cells, kitchen, and administrative rooms, as well as registry books in the temporary detention facility, were monitored. The necessary recommendations were made to the head and staff of the facility regarding the compliance of their work with the requirements of existing national and international legal frameworks.

The NPG members carried out a follow-up visit to the *temporary detention facility of the Jalilabad District Police Department* without prior notice. In the course of the visit to the facility, the cells and documents confirming the lawfulness of the detainees' custody, including those related to their treatment and detention conditions, nutrition, medical assistance, outdoor exercises, visitations, phone calls, removal from cells, parcels, and other related matters, were inspected. The existing needs were identified.

During the visit, as part of the investigation into detention conditions and treatment standards in the facility, 16 detainees were received. They were informed of the Ombudsman's competences and provided legal advice.

Among the detainees, E.M. and E.L. stated that biased criminal cases were initiated against them for actions that they did not commit by the Jalilabad District Police Department, adding that the investigation was not conducted objectively. The detainees also complained about the treatment by the deputy chief of the Department and other staff while being detained.

The NPG members implemented a visit to the *Southern Regional Department of the Main Directorate for Combating Drugs under the Ministry of Internal Affairs* to investigate the complaint regarding illegal detention received at the Ombudsman's Call Center.

During the visit, the institution's registry books were checked, the interrogation and service rooms were inspected and the appeal was investigated on the spot.

With reference to the head of the Southern Regional Division of the Main Directorate for Combating Drugs, as a result of an operation to prevent the illegal turnover of drugs, the detainee's spouse was invited to the division for a statement, after which she was released.

The NPG members conducted a scheduled visit to *the temporary detention facility of the Lerik District Police Department*. During the visit, private conversations were held with each of the 4 detainees, their rights and responsibilities were explained, and documents confirming the lawfulness of their detention were checked. They were also provided with explanations of relevant provisions of the Constitutional Law. The detainees did not complain regarding the detention conditions and treatment.

During the visit, the cells, interrogation rooms, visitation rooms, medical and prayer rooms, kitchen, bathing and walking areas were inspected. The current situation regarding the organization of healthcare services, nutrition, parceling, outdoor exercises, visitation, and phone calls was investigated, and registry books were reviewed.

It has been found that efforts have been made to overcome deficiencies such as non-compliance with sanitary and hygiene rules, improper maintenance of registry books, alterations in records, illegible handwriting in medical records, absence of the information boards displaying the detainees' rights and freedoms in the cells, placement of former convicts together with the first-time offenders in the same camera, denial of family visits for administratively arrested persons, and failure to access phone calls identified in the facility during the previous visits to the *temporary detention facility of the Lerik District Police Department*.

The members of the NPG have conducted a scheduled visit to the *temporary detention facility of the Main Police Department of Ganja City*. During the visit, the cells in the facility, the walking area, the kitchen, the visiting rooms, the interrogation rooms, medical and the prayer rooms, as well as the inventory storage, were monitored.

At the time of the visit, a total of 21 persons, including the accused and administratively arrested persons were received confidentially.

Several defects were identified in the detention conditions of the facility. It was observed that the walls of the cells of the facility were in need of overhaul and repair due to the humidity, as they had eroded. Also, in accordance with the internal disciplinary rules for the organization of the parcel reception, it was determined that the facility was not provided with the necessary inventory.

Considering the findings of the visit, it is essential for the Ganja City Main Police Office to carry out significant repair work to improve detention conditions in the temporary detention facility. Also, it is necessary to ensure the provision of the necessary inventory for parcel reception in compliance with internal discipline regulations.

The NPG members implemented a scheduled visit to the *temporary detention facility of the Gazakh District Police Department*. During the visit, the NPG members received 10 administratively arrested persons held there. Their detention conditions and treatment by the facility staff, have been monitored.

During the visit, while monitoring the detainee property storage in the temporary detention facility, one box of "Ketonal" medical drugs was found in the closet with the detainee's belongings. Furthermore, it was determined that a water tap was damaged and there was a lack of scales for parcel reception.

In addition, it has been determined that there is no female staff member at the Ganja City Main Police Department to ensure the execution of the search of women detainees by a person of the same gender. In such cases, a staff member responsible for clerical work is engaged. The management of the facility has been informed about these shortcomings in order to overcome them.

During a *scheduled visit to the temporary detention facility of the Goranboy District Police Department*, the NPG members conducted a general inspection of the facility. It was observed that, considering the previously given recommendations, the size of the cells is in line with international standards, and the conditions in the administrative rooms are in accordance with sanitary rules, which ensure adequate protection of the rights of detainees. Also, it was found that the facility is heated through a centralized heating system, and there is a continuous supply of hot and cold water. The bedding and bed accessories in the detention cells are equipped with new mattress covers and bedding. All rooms and cells are equipped with the necessary inventory according to their designated purposes.

The NPG members privately interviewed nine people held in the facility to assess their detention conditions, routine health checks, nutrition, and treatment by the staff of the temporary detention facility.

While receiving Z.J., who has been administratively arrested for 10 days and found guilty under Article 157 of the Code of Administrative Offences of Azerbaijan based on the decision taken by the Goranboy District Court, the detainee stated that he had received a parcel from his family. However, while checking the related document, a registry book for foodstuffs and items found in parcels, it was seen that foodstuffs had not been registered.

The NPG members implemented a planned visit to the temporary detention facility of the *Goygol District Police Department*.

During the investigation of the area for outdoor exercises in the temporary custody setting, it was observed that one part of the area was covered to protect detainees from rain and sunlight, outdoor sport exercise equipment was installed, and the visitation room was supplied with a TV.

At the time of the visit, five persons held in the facility had been received to discuss the issues of treatment, opportunities for contact with relatives, healthcare services, aid by legal counsel, and other matters in a confidential manner.

At the end, the NPG members had a talk with the management on how to improve the detention conditions, and the documentation, where the group members stressed the importance of compliance with the anti-Covid pandemic sanitary and hygienic rules.

A scheduled visit was conducted to the *temporary detention facility of the Samukh District Police Department*, where the cells, a medical unit were furnished with the

necessary equipment and medicaments, a walking area, a kitchen, interrogation room, a meeting and praying room arranged in the same place, and an inventory warehouse have been monitored. It was found that the conditions created enabled detainees' rights to be well-protected and freedoms while also complying with sanitary norms.

During the visit, one person held in the temporary detention facility was received in private. The NPG members inquired about his conditions of detention and treatment by the staff members of the facility, and that detainee reported he did not complain about his conditions of detention, the treatment by the police officers, the medical examination, and the food provided.

During the examination of the documents confirming the lawfulness of detention, no illegal actions were found. Also, the registry books of the facility were checked, and it was found that the books contained necessary records.

At the end of the visit, discussions were held with the facility's management, and recommendations based on national and international legislation were provided to improve the conditions of detention and documentation. Furthermore, the significance of following all sanitary and hygienic rules in the fight against the COVID-19 pandemic was underlined.

As part of the *preventive visit to the temporary detention facility in the Guba District Police Department*, the medical-sanitary part of the facility, cells, the kitchen, and other administrative rooms have been examined to assess the conditions of detention. Furthermore, the existing situation with the provision of medical care, food, drinking hot and cold water, outdoor activities, visitation, and telephone calls was investigated.

In order to investigate matters related to detainees' treatment, the NPG members held confidential interviews with 7 detainees held in the facility. Their rights and documentation conditions were assessed on the spot during this process.

In the course of the visit, an awareness talk was held with the management of the facility and employees, who have been provided with the relevant commendations.

During the follow-up monitoring conducted in the *Guba District Police Department temporary detention facility*, 16 detainees held there were interviewed confidentially. The situation with ensuring their rights and documentation conditions was assessed.

As a result of the visit, several deficiencies were identified. Specifically, it was found that detainees, including those administratively arrested, had their outer clothing completely removed for strip searches upon admission to the facility, which contradicts the requirements of Article 2.15 of the "Internal Regulations of the Temporary Detention Facilities."

Furthermore, in some of the cells, there were no placards indicating the rights and responsibilities of detainees.

Overall, legal awareness-raising talks were conducted with the facility's management and staff, and relevant recommendations were made.

The NPG members implemented a monitoring visit to the *temporary detention facility of the district police department in Gusar*. During the visit, for the investigation of the detention conditions, the facility's cells, the medical-sanitary unit, the kitchen, and

other administrative rooms were inspected. Besides, the current situation regarding the organization of medical care, the provision of nutrition, drinking hot and cold water, outdoor exercises, visitation, phone conversations and documentation were examined.

To investigate treatment issues, three persons detained in the facility were confidentially interviewed by members of the NPG. The situation concerning the safeguarding of their rights and the documentation were examined at the place.

To conclude, legal awareness-raising discussions were held with the institution's management and staff, who were given relevant recommendations.

The NPG had a monitoring visit to the *Siyazan District Police Department temporary detention facility*. During this visit, the detention conditions, including the facility's cells, the medical-sanitary unit, the kitchen, and other administrative rooms were monitored. Additionally, the current situation regarding the organization of medical care, and the provision of nutrition, drinking water, heating and cooling, leisure activities, visits, phone conversations and documentation were examined.

The NPG members conducted a visit to the *temporary detention facility of the Sheki City-District Police Department*. During this visit, inspections were carried out in the facility's cells, interrogation, medical, prayer, and meeting rooms, the kitchen, the bathroom, and walking area with a view to investigating the detention conditions. The situation regarding nutrition, parcels, telephone conversations, and the provision of visits was also investigated.

Individual interviews were conducted with each of the 4 detainees held in the temporary detention facility and their treatment and protection of their rights were assessed. The personal belongings and registry books of detainees at the facility were examined.

Subsequently, the management and employees of the *temporary detention facility of the Sheki City-District Police Department* were engaged in legal awareness discussions, and made recommendations regarding detention conditions, healthcare services, and documentation in line with national and international legislation.

As well, throughout the year, during the follow-up visits held at the *Sheki City-District Police Department's temporary detention facility* in order to investigate treatment issues, private interviews were conducted with a total of 12 detainees.

A visit was carried out to the *temporary detention facility of the Mingachevir City Police Department*. During the visit, the cells, the interrogation, the medical, prayer rooms, kitchen, bathroom, and areas for outdoor exercises, as well as the situation regarding nutrition, parcel service, phone calls, and visitations, were examined to assess the conditions of detention in the facility.

During the inspection in the temporary policy custody setting, 11 detainees held there were interviewed in private. One of the detainees, O.H., said that he was subjected to cruel treatment. The relevant authorities were requested in this regard and preventive measures were taken.

In conclusion, a legal awareness talk was held with the management and employees of the temporary detention facility and recommendations regarding detention

conditions, medical services, and documentation in accordance with national and international legislation were provided.

During a repeated visit to the *temporary detention facility of the Mingachevir City Police Department*, five detainees held there were interviewed confidentially, and the conditions of their rights and documentation were investigated. At the end of the visit, a legal awareness talk was held with the management and employees of the temporary detention facility.

Also, the NPG members carried out an inspection of the *temporary detention facility of the Gakh District Police Department*. At the time of the inspection, the facility's cells, the interrogation room, the medical room, the kitchen, and the walking area, as well as the situation regarding meals, parcels, phone calls, and visitations, were investigated.

During the inspection, it was found that one of the two-person cells did not comply with the standards for living space for detainees as established by Article 21.2 of the Republic of Azerbaijan Law "On Ensuring the Rights and Freedoms of Persons Kept in Places of Detention" and Article 10.2 of the "Internal Disciplinary Rules of Temporary Detention Facilities" for persons held in custody or detention.

During the visit carried out to the *Mingachevir City Police Department's Temporary Detention Facility*, interviews were conducted individually with three detainees held there. Their opinions regarding detention conditions and treatment were studied.

An unscheduled visit was conducted at the *temporary detention facility of the Balakan District Police Department* without prior notice. In order to investigate detention conditions, one detainee held at the temporary detention facility was interviewed confidentially, and the situation regarding ensuring his rights as well as documentation was investigated on the spot.

An unplanned visit was also carried out to the *temporary detention facility of the Zagatala District Police Department* without prior notice. Four detainees held at the facility were interviewed in private. At the end, the management and staff of the temporary detention facility had an awareness talk.

The NPG held a visit to the *temporary detention facility of the Gabala District Police Department*. During the visit, the cells, interrogation room, medical units, worship and visitation rooms, the kitchen, the bathroom, and areas for outdoor exercises. In addition, the situation with nutrition, parcels, phone calls, and the provision of meetings were monitored.

During the *tete-a-tete* conversation with one of the detainees held there, he said that no violations of the law were committed against him. While examining the detainee's medical record, it was established that the initial examination had been carried out by a paramedic. Furthermore, during the inspection of the registration books for the medical examination and provision of medical assistance to detainees, it was revealed that the initial examination of detainees was conducted by paramedics, which contradicts the 2.1 section of the "Rules for Providing Medical and Psychological Assistance to Detained or Arrested Persons and the Rules for Their Detention in Medical Institutions," approved by Decision No. 67 of the Cabinet of Ministers of the Republic of Azerbaijan on April 18, 2013.

At the end of the visit, a final discussion was held with the management of the facility, and it was recommended to eliminate the problem related to medical examination.

Two detainees in the *temporary detention facility of the Gabala District Police Department* held throughout the year were confidentially interviewed, and recommendations were made to the facility's management.

The members of the NPG conducted a scheduled visit to the *temporary detention facility of the Ismayilli District Police Department* without prior notice. During this visit, two detained persons kept in the facility were privately interviewed. When the documentation was reviewed, it was found that some records were not properly maintained, and relevant recommendations were given to the facility's management.

Visits to the *temporary detention facility of the Oguz District Police Department* were conducted. During the review of the personal files and registration books of detainees held at the facility, no irregularities were noted.

Two detained people were interviewed during the visit.

Overall, awareness-talks with the management of the temporary detention facilities were held; and recommendations were provided in compliance with national and international legislation on detention conditions, medical services, and documentation.

The NPG members carried out a visit to the *temporary detention facility of the Shamkir District Police Department*.

During the visit, the facility's cells, medical-sanitary unit, kitchen, and administrative rooms, the current situation with organization of medical services, nutrition, supply of hot and cold water, walking area, visitations, phone conversations and documentation were monitored to assess the detention conditions.

9 individuals held at the facility were confidentially interviewed by the NPG members to assess the issues related to detention, and the situation with ensuring their rights was examined on the spot.

During the visit, it was determined that upon admission to the policy custody, the body search of detainees and administratively arrested persons' are carried out in violation of Article 2.15 of the Internal Regulations of Temporary Detention Facilities approved by the Cabinet of Ministers' Decision No. 63 dated February 26, 2014.

It was observed that there is no boiled water supply in the facility, there are no information billboards in some cells about the rights and duties of the detained persons, and there is no library.

Although in the medical book Kh.Gahramanova was indicated as a female doctor, who conducted medical examinations, the detainees said that they had been examined by a male doctor.

At the end of the visit, an awareness talk was held with the management of the facility and responsible employees, who were provided with appropriate recommendations on how to eliminate the identified shortages.

*The European Committee for Prevention of Torture (CPT) attaches significant attention to the training of staff and notes that the best guarantee against the ill-treatment*

*of detainees is a trained police force. For this reason, the Ombudsman recommends further extending the legal educational work in the activities of the police authorities.*

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

Throughout 2021, 59 visits were carried out to the institutions under the jurisdiction of the Ministry of Justice Penitentiary Service.

The purpose of these visits was to assess the treatment of detainees, their detention conditions, visitations, phone contacts, organization of healthcare services, nutrition, clothing, ventilation, heating, ensuring the rights to appeal and legal aid, and other aspects related to the provision of their rights.

During the visits to penitentiary institutions, confidential meetings were held with detainees and issues related to their treatment standards, detention conditions, and ensuring their rights were investigated. The complaints and appeals made by detainees to the Ombudsman were brought to the attention of the relevant authorities.

Among the penitentiary service's institutions, more visits were implemented to pre-trial detention facilities. The reason for this was the large number of applications of the accused (*a person against whom criminal prosecution has been initiated*). Regular visits to such institutions also contribute positively to preventing ill-treatment.

The Ombudsman carried out an unannounced visit to the *Baku Pre-trial Detention Facility of the Penitentiary Service of the Ministry of Justice*.

During the visit conducted with the participation of the NPG member, who is specialized in medicine, confidential meetings were held with a number of detainees, as well as persons from Armenia accused of involvement in public order disturbances in the liberated territory of Azerbaijan after the cessation of hostilities according to the tripartite statement dated 10 November 2020 and detained based on a court decision.

The interviewed persons did not complain about their detention conditions, treatment, quality of food, and medical services. They were informed of their rights and the Ombudsman's competences. It should be noted that those accused persons have been provided with normal detention conditions and phone contacts with their family members and next of kin without any discrimination.

At the end of the visit, an awareness talk addressed to the management and staff of the detention facility was held, and appropriate recommendations were made.

Within the year, a total of 14 scheduled and unscheduled preventive visits were conducted to the Baku Pre-trial Detention Facility by the Ombudsman and NPG members. In the course of these visits, over 200 detainees were received, they were informed of their rights and the Ombudsman's competencies, and a number of their appeals were resolved on the spot.

The persons who refused food intake were listened to, and provided with recommendations to resume their food intake in order not to face serious health problems, whereas the management of the facility was recommended to keep those persons under the doctor's control.



The reason why people went on hunger strike was because the investigation of their criminal proceedings was biased.

The members of the NPG carried out a scheduled visit to the *Pre-trial Detention Facility No. 2 of the Penitentiary Service of the Ministry of Justice*. The purpose of the thematic visit was to assess the conditions of detention and treatment of women and minor offenders detained in the facility, the situation with ensuring their rights, as well as the preventive measures against the COVID-19 pandemic.

The head of the facility reported that on the date of the visit, a total of 593 people were detained in the facility; 7 of them were women, and 7 were minors.

The management of the facility stated that preventive disinfection measures against the COVID-19 pandemic are carried out regularly, detainees and employees of the facility are provided with medical and hygienic means, and that, each detainee admitted to the facility is accepted on the basis of a negative COVID-19 diagnostic test, which positively affects the prevention of infections.

The areas where women and juveniles are held in the facility were monitored, and the existing detention conditions were examined. Also, 7 female detainees were interviewed about their detention conditions and other issues, they were informed of their rights, and their questions were answered. These detained women stated that they had no complaints about their conditions and treatment in the facility.

In the course of the visit, a meeting was also held with 7 juveniles kept in the facility, and their opinions regarding their conditions of detention, conditions in the cells, the treatment by the detention facility staff, their nutrition, and medical supervision were learned.

It was determined that in some cells of the facility, juveniles and adults are kept together. As the requirements of clause 5.11.2 of the Internal Disciplinary Rules of Pre-trial Detention Facilities, and detention rules were violated, the considerations of the management of the facility were studied, and it was reported that the purpose of such detention was to regulate the minors' behavior and not to leave them alone.

*In accordance with clause 35.4 of the European Penitentiary Rules, where children are detained in a penitentiary facility they shall be kept apart from adults unless it is considered that this is against their best interests.*

The NPG members made appropriate recommendations to the management of the facility to further improve the detention conditions and expand the preventive anti-COVID-19 pandemic measures.

During the next visit to that facility, it was observed that 794 people were detained in the 700-bed detention facility. In some cells, it was found that the water tap of the sanitary junction was faulty, water was constantly flowing due to the defected water system, and in general, due to the high level of humidity, the walls were exposed to erosion, and the floors were made of concrete. According to the requirements of clause 3.2 of the Internal Discipline Rules of pre-trial detention facilities, the floors of the cells should be covered with wood or ceramics.

Within the year, the NPG members carried out five visits to Pre-trial Detention Facility No. 3 of the Penitentiary Service.

Overcrowding was observed in this facility, as well as in other facilities.

The confidential meetings were held with a view to assessing the treatment issues and conditions of detention; the Ombudsman's jurisdiction as an NPM was explained; and the appeals were accepted.

During the visit, it was found that there are shortages in ensuring the right to outdoor activities and regular health control in solitary confinement.

Furthermore, it was determined that a detainee, O.G., was kept in solitary confinement without a decision as such. During the investigation of the matter, the facility's head said that that detainee got chickenpox, and he was placed there based on the doctor's relevant medical report to isolate him from other detainees, as well as the preparatory works regarding his transfer to the Medical Institution of the Penitentiary Service having already started.

At the end of the visit, final discussions were held with the management of the facility and appropriate recommendations were made to eradicate shortages and improve the detention conditions and treatment standards.

The NPG members implemented a scheduled visit to the *prison of the Penitentiary Service* without prior notice.

During the visit, a solitary confinement, medical-sanitary unit, the kitchen, visiting rooms and other objects in the prison facility were monitored.

During the visit where an NPG member, who is a medical doctor, also participated, the prison conditions, treatment issues, health issues, nutrition, phone contact, visitation, and the situation with ensuring the other rights of prisoners and life-imprisoned persons were investigated on the spot.

In the course of the private meeting, the prisoners were informed of their rights, the Ombudsman's competencies, and the requirements of the relevant legislation. Also, the applications addressed to the Ombudsman were accepted, and a number of appeals were resolved on the spot.

During the visit, it was found that there is a need for overhaul in the solitary confinement, in the medical-sanitary unit, some medicines have expired and do not have the necessary seal on them, the laboratory room and operation department are not functioning, the X-ray, USM device, and many other medical equipment did not work, the fire regulations were not observed, and there were shortages in the documentation.

In conclusion, the NPG members had legal awareness talks with the management and employees, and appropriate recommendations were provided for eradicating the shortages and further improving the detention conditions, treatment issues and documentation.

In 2021, during visits (in total of 7 visits) implemented to the *Treatment Facility of the Penitentiary Service*, the purpose was to investigate the incoming appeals to the Ombudsman and detention conditions and treatment issues, and to study the situation with ensuring the rights of prisoners to health and other rights.

It was observed that the detention conditions in the treatment facility are unsatisfactory, and separate parts of the buildings are generally unusable.

During the monitoring visits, meetings were held with detainees and treated persons, and their appeals to the Ombudsman were received.

The lack of necessary medical devices (magnet resonance tomographic (MRT) medical devices, etc.) and specialized medical doctors is among the problems related to the Treatment Facility of the Penitentiary Service.

The NPG members held talks with the management of the facility about effectively ensuring the rights of detainees and made appropriate recommendations.

The purpose of the monitoring visits by the Ombudsman's NPG members to the Correctional Facility under the Penitentiary Service was to assess the detention conditions of juveniles and to hear their requests, as well as to present gifts to each of them during the visit held on the eve of the Novruz holiday.

During the visit, several juveniles were interviewed in a confidential manner. Those persons were mainly requested for effective organization of their leisure time, appropriate medical examination and treatment in the Treatment Facility, and pardoning. Appeals that could be satisfied on the spot were satisfied, and the applications of some persons addressed to the Ombudsman were received.

The NPG members conducted 3 monitoring visits to the *Sheki Penitentiary Institution* during the year.

During the first visit, it was found that 969 people were detained in the facility in total. Furthermore, during the check of the randomly selected cells in the pre-trial detention part of the facility, it was determined that 300 people were held in the pre-trial detention facility for 170 people. As a result of the monitoring of cells conducted based on the random selection method, it was found that some cells were overcrowding and unclean, and some beds did not have mattress covers and sheets. Furthermore, the number of beds was less than the number of detainees.

It was reported that 17 of the prisoners are in the medical and sanitary section, and 13 are in the punishment cell (10 are held there for violating the rules of the sentence, and 3 are for their safety).

It was said that 97 percent of prisoners were vaccinated against the Covid-19 infection, 3 percent were issued certificates of contraindication, and those who are held in pre-trial detention are vaccinated on a rotating basis. Those who are newly admitted to the facility are isolated and stay in quarantine.

It was found that a juvenile offender J.M. (age of 16) is kept together with an adult M.A. in one cell for about 3 (three) months, in contradiction to Article 5.11.2 of the Internal Disciplinary Rules of the Pre-trial Detention Facilities. When this violation was reported to the head of the institution, it was reported that there was only one minor person in the institution, and such a step was taken to prevent him from being kept alone as an exceptional case.

During inspecting the pre-trial detention facility, it was determined that, despite the fact that there were 5 stained glass phone boxes in the visitors' room, only two were equipped with phones.

While monitoring the medical-sanitary unit, it was observed that there was a lack of medical staff. Although it was reported that there were 17 prisoners there, while checking the registry book for inpatient admissions of the patients, it contained only records about 16 people.

With the intervention of the NPG members, the necessary notes were taken, and the shortage was eliminated. During the inspection of medical rooms, and a padded ward for the detention of people with mental disorders, it was observed that there were uncleanness and that a part of the floor in the physiotherapy room had rotted and become useless.

During the inspection of the kitchen of the 1st wing of the Strict Regime, it was observed that there was uncleanness and cracks on the electric heating stove. The convicts complained in this regard.

It was observed that the library and computer room were unclean, and the floor of one of the cells on the 2nd floor of the building was made of concrete.

At the end of the monitoring visit, a debriefing meeting with the head of the penitentiary facility was held to discuss the outcomes of the monitoring as well as to bring the views of the interviewed people to attention based on confidentiality. To eliminate the shortages and improve the detention conditions and treatment, recommendations were made in line with the legislation, and a poster about the "916" Call Center of the Ombudsman was presented to be placed within the premises of the facility.

The objectives of other monitoring visits were to investigate the applications received by the Ombudsman. Some detainees were interviewed, and their requests were heard. Two of the interviewed people requested to be granted a disability degree, and one asked to improve the medical supply. The requests were raised before the relevant authorities and granted.

An unscheduled visit was conducted to *Penitentiary Institution No. 6 under the Penitentiary Service*.

The abundance of punitive measures in the transition to the disciplinary cell has drawn attention here. Specifically, it has been determined that on the day of the monitoring, 40 people were held in the disciplinary cell. In comparison to similar regime penitentiary facilities, this number is quite high and indicates a lack of rehabilitation measures here.

Despite the fact that the disciplinary action against 3 people has ended and there is a record and signature of the guardian about the release of those people in the relevant registration book, those people are still kept in the disciplinary cell at the time of the visit. With the intervention of the members of the NPG, those people were released from the disciplinary cell.

In the disciplinary cell, inside the room for the facility staff, were found special instruments of restraint, such as handcuffs and rubber baton.

The appeals also included the issues of the use of a rubber baton to convicts who objected to the required behavior during the search and examination measures, and then being transferred to a disciplinary cell that are contradicted to the *UN Standard Minimum Rules for the Treatment of Prisoners* (Rule 43.2), which prohibits the application of instruments of restraint as a sanction for disciplinary offences.

The duration, limit and grounds for the application of the special means of restraint indicated in the "Instruction on Security Measures and Their Implementation in the Penitentiary System of the Republic of Azerbaijan" *should be improved in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners, the European Prison Rules, and the CPT and SPT recommendations to apply as a last resort.*

It was found that the number of beds and chairs in cells was inadequate for the number of detainees. Thus, though there were vacant cells, 4 (four) people were held in a 3-seat cell, and there were no mattresses in the beds.

The interviews with detainees and monitoring give a reason to say that it is necessary to increase attention to the supplementation of bedding for beds as well as hygienic means (tooth paste, soup, and towel).

It was also observed that the hairs of all prisoners transferred to the disciplinary cell were completely shaved.

It was also found that prisoners were not allowed to go outdoor walking and were kept indoors until the end of the disciplinary action, which is a serious violation of the legislation on the execution of punishments.

Furthermore, the lighting and natural light that fall into the cells of the disciplinary cell are poor.

In addition to the above, cases have been identified where inmates isolated for security reasons are kept together with other inmates transferred to solitary confinement under the disciplinary measure. This is based on the operational necessity of isolating these individuals from other inmates, however, such situations raise concerns.

Besides, it was determined that prisoners segregated for security reasons are kept together with convicts detained in the disciplinary cell. Although this was justified by the segregation of prisoners for security reasons, the confinement in the same place with the persons who have been punished by transferring them to the disciplinary cell and the large number of such decisions are disturbing.

Within the mandate of the Ombudsman, monitoring visits were conducted at *Penitentiary Institution No. 10 under the Penitentiary Service.*

The purpose of this visit was to monitor the detention conditions and treatment of persons detained in the facility and assess the situation regarding ensuring the rights of convicts and those who appealed to the Ombudsman.

The confidentially interviewed persons mainly complained about the use of special means of restraint (rubber batons and handcuffs) and some difficulties in sending appeals to various authorities.

While monitoring the “Quarantine room” for newly admitted convicts, a serious law violation was found. Thus, it was determined that although 14 days have passed, convicts have not been transferred to their living spaces in penitentiary establishments in violation of the legislation on the execution of punishments.

During the monitoring, deficiencies in nutrition, registration, and medical services were found.

The Penitentiary Service of the Ministry of Justice was appealed regarding the shortcomings as well as taking preventive measures for allegations of ill-treatment in penitentiary establishments No. 6 and 10, and relevant measures were taken.

The NPG members conducted a scheduled visit to *Penitentiary Institution No. 4 under the Penitentiary Service*.

In general, the relocation process to the newly constructed building should be expedited. Furthermore, it has been observed that work is being carried out in the residential blocks, the dining hall, and the medical-sanitary section with the aim of improving the current conditions of detention in the facility, as well as for the purpose of rehabilitation, the female convicts were involved in labor and provided with a monthly salary. Also, taking into account the recommendations, measures were taken to encourage convicts to read books, and cultural events were organized to improve their moral and psychological condition.

While inspecting the medical part of the facility, it was determined that there were 3 (three) inmates). During the questioning of women, they did not complain about their detention conditions and said they were rendered all necessary medical services.

During the interview with the randomly selected prisoners, their requests were listened to and informed of the requirements of the legislation and given legal advice on the issues they raised.

During the follow-up visit held at that facility throughout the year, it was found that there were 388 people (38 more than the limit) in the facility.

Taking into account that incarcerated females have a special need for attention when meeting with their children who live apart from them, as well as being guided by international standards and recommendations, the NPG members recommended to creating favourable conditions and a separate visiting room in the new facility for organizing such meetings with the participation of children, bearing in mind all the above-mentioned as well.

Besides, it was stressed the importance of the participation of a psychologist and other specialists in the meetings where children take part, as well as the need to take appropriate measure to prevent any outside interference in the mother-child communication.

The NPG carried out a scheduled visit to *Ganja City Open-Type Penitentiary Establishment No.5*

It has been determined that out of the four dormitory buildings on the institution's premises, only one is in use. In that dormitory, there are a total of 13 beds, chairs and wardrobes corresponding to the number of inmates. However, the dormitory in use is

not provided with certain equipment and items, including metal beds corresponding to the number of inmates, a table for 10-12 people, seats (chairs), a large container and mug for drinking water, and a loudspeaker (radio device). Furthermore, despite the presence of a gas heating system in the administrative building, it was found that a diesel-fueled stove has been installed in the dormitory.

Despite the requirement of Article 33 of the internal disciplinary regulations of correctional facilities, which stipulates that each inmate should be allocated a separate bed with a nameplate displaying their last name, first name, and patronymic, such nameplates were not found in the dormitory. Furthermore, it was observed that there were no informative information boards on the rights of the prisoners in the dormitory.

During the visit, it was determined that the institution's kitchen requires significant renovations as it is old and in a state of disrepair. Additionally, while the bathroom and the general sanitary unit are functional, they also require overhaul.

Although Article 119.2 of the Code of Execution of Punishments of Azerbaijan stipulates that communal, food, financial, household, medical-sanitary, and other provisions for inmates in an open-type correctional institution should be provided at the state's expense, it has been determined that there are no financial resources available for these provisions in the institution.

It has been determined that the facility lacks a medical-sanitary section, a library, a laundry, storage for inmates' personal belongings, and a commissary, in contradiction with item 5.1 regarding the specifics of the structure of open-type penitentiary institutions in the Internal Disciplinary Regulations of penal institutions.

In addition, it has been identified that there are no female psychologists, doctors, or paramedics among the institution's staff. According to Article 184 of the Internal Disciplinary Regulations of penal institutions, a personal search must be performed by someone who shares the same gender as the subject of the search. It has been observed that, when necessary, searches on persons are conducted by a female, who works as a clerk and that she is not a staff officer, as well as that during her leave or when she is on vacation, it is not possible to conduct body searches of female inmates.

Furthermore, it was found that the existing disciplinary isolation room in the facility is not organized in accordance with the requirements of the Internal Disciplinary Regulations of penal institutions, because, despite the fact that it must be completely separate from other buildings, it is located inside the administrative building, and plus, it is not furnished with seating fixed to the ground, and the cupboard that existed there was not fixed to the ground.

An unnoticed scheduled visit was carried out to *penitentiary facility No. 17*. The objective of this visit was to assess the conditions of detention, treatment, and disciplinary matters, review received applications and incoming calls, and examine the situation concerning the rights of inmates. Therefore, confidential interviews were conducted with 40 inmates.

There was overcrowding in that facility as well; that is, it has been found that 1088 inmates were held in a facility with a total capacity of 1050 people.

On the day of the monitoring visit, there were 26 people in the disciplinary cell, and 7 of them were held there for common reasons.

During the monitoring of the renovated canteen of the institution, it was determined that the floor is made of wood and cleanliness is being maintained.

Also, in the living space of the prisoners, it was found that the floor was made of wood, the ventilation system was in satisfactory condition, the facility was provided with a TV, and the praying room was tidy.

Due to the humidity in the cells of the disciplinary confinement, and the presence of bulges on the walls, there were tables and chairs only for 2 people in the space intended for 3 or 4. Furthermore, in some rooms, water taps and valves were not functioning, the bathroom's walls were in need of repairs, and in some instances, information boards on the rights and duties of the prisoners have not been hung.

The management of the facility was informed about the identified deficiencies; some of them have been eliminated on-site, and information has been provided regarding the prompt execution of repair works.

The situation regarding documentation has been investigated, recommendations have been given concerning the deficiencies in the documentation process, and the implementation status has been re-examined during the follow-up visit.

### **2.2.3. Institutions of the State Security Service**

During the year, the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan and NPG members have conducted 4 monitoring visits to the Temporary Detention Facility and the Investigation Isolator.

The objective of the visit organized in compliance with the requirements of the OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was to investigate detention conditions and treatment, the the situation regarding ensuring the rights of detainees in this facility and applications received by the Ombudsman.

During monitoring visits, along with other accused persons, A.G. from Armenia, identified as one who is involved in committing socially dangerous acts in the liberated territories of Azerbaijan and held under the court decision, was interviewed confidentially.

In the time of the monitoring visit, conducted by the Ombudsman under the NPM mandate, requests of that detainee were also listened to, and he was informed on his rights by providing legislative acts in his own language.

Without any distinction, it was observed that, that detainee's rights were ensured and necessary medical and psychological services were rendered.

At the end of the conducted visits, the issue related to ensuring the rights of the detainees was discussed with the management of the Temporary Detention Facility and the Investigation Isolator, and recommendations were made in accordance with national and international legislation.



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

Under the NPM jurisdiction of the Ombudsman, 14 unannounced monitoring visits were conducted in healthcare facilities under the Ministry of Health.

A scheduled visit was implemented by the NPG members at the *Children's Home No. 1* under the Ministry of Health.

During the visit held with the participation of the specialized psychological expert of the NPG, the bedrooms and medical rooms, playrooms, kitchen, laundry room, and other areas of the childcare facility were monitored. The quality of nutrition, the state of the organization of healthcare services and psychological work, and documentation were investigated. Several discrepancies were revealed.

During the inspection, it was determined that the duty physician was on leave, but no substitute colleague was assigned.

During the examination of the bedrooms, it was seen that the sanitary condition did not meet the sanitary and hygienic standards, water taps were not functioning; there was a lack of hygiene items intended for children, such as toothbrushes. Though some bedside cabinets had names on them, they were empty inside. Furthermore, it was observed that the personal belongings of colleagues were stored together with the children's belongings.

In the medical part, it was observed that there was no first-aid kit, registration of medications (vaccines) had discrepancies, physiotherapy, massage, and manipulation rooms were not utilized, and the medical devices for physiotherapy were not functioning. Thus, in the registry book for child vaccination, it was found that there were inconsistencies in the number of medications with the existing medications (according to records: the number of inoculated vaccines is greater than the remaining number of vaccines).

When examining the medical records of children, it was determined that 3 children were placed in the Children's Clinic No. 2 named after A.F. Karayev. Due to the lack of information about the current conditions of these children by the personnel, the clinic was contacted by an NPG member to obtain additional information.

In general, it was observed that the dormitory was untidy, and that there were unclean belongings to staff members. In addition, while the social facility was equipped with an automatic fire alarm system, it was noted that the fire extinguisher canisters had expired.

Overall, psychological work with children is not being carried out. Thus, the observation, initial and continuous assessment, and registration of the development dynamics of self-care skills (for example, children's tooth brushing, and eating) are not conducted. The main cause of this has been indicated as the lack of a psychologist staff unit. It is important to note that there is neither a speech therapist nor a child psychologist working at the facility, which employs in total of 69 employees, including 5 pediatricians, 11 medical nurses, 12 babysitters, and 21 educators.

Children are not taken outside, and the cold weather is shown as a reason, but the mild weather on previous days, including the day before the holiday, shows that this reason is groundless. In addition to the shortage of toys for children, it has been observed that there is almost a lack of age-appropriate and developmental toys available for them.

The institution's pool is not used.

Shortcomings have been identified in the sterilization of children's individual items (such as pacifiers) and in the storage of food supplies.

Upon reviewing the documents, it has been determined that the institution's charter (regulations) was approved in 1997 and has not been updated during the intervening period.

At the end of the visit, a legal talk was held with the management and staff of the facility, who explained how to eliminate the shortcomings identified and proposed recommendations for issues that could be resolved on-site.

It should be noted that, to address the identified deficiencies and shortages in the institution, a letter has been sent on behalf of the Ombudsman to the Minister of Health, outlining necessary suggestions and recommendations. In the response letter, it was stated that according to the relevant decree of the Ministry of Health, a commission was formed, and an on-site investigation was conducted at the Children's Home No. 1. Consequently, the chief physician was reprimanded, and the institution's management was tasked with swiftly resolving the identified deficiencies.

During the follow-up visit, considering the Ombudsman's recommendations, 2 psychologists have already worked with the children in the facility.

A visit was conducted to the *Ganja Children's Home under the Ministry of Health of Azerbaijan*. There were five vacancies, including - 3 pediatricians, a physiotherapist, radiodiagnostic doctor, in the facility.

Though the institution was supplied with disinfectants solutions, it was not equipped with a remote temperature monitoring device.

During the investigation, it was observed that the second floor of the institution's two-story dormitory is entirely non-functional. Although the facility was intended to have a radiological diagnostics unit, physiotherapy and medical recovery units, and a pharmacy, it has been found that these amenities are not present.

In general, the current condition of the building and infrastructure of the Children's Home does not adequately offer a suitable living area for the children, hindering the provision of quality social services and considering the age and individual characteristics of the children, such a condition negatively affects the physical, psychological, and social development of the children, their basic care needs, the discovery of talents and abilities, and the preservation of their health.

The purpose of the scheduled visit of the NPG members to the *Republican Psychiatric Hospital* under the Ministry of Health without prior notice was to investigate the medical treatment and care conditions of the patients, the quality of medical services, and the relevant documentation in the institution.

The treatment condition was monitored, and the institution's management was given suggestions on how to rectify the identified shortages, and address the issues that could be solved immediately. Furthermore, legal awareness talks were held with the institution's management and staff to ensure the protection of patients' rights and prevent any mistreatment towards them in the future.

During the inspection of the Compulsory Mental Health Treatment Unit at the Republican Psychiatric Hospital, it was found that the humidity levels were higher than the norm, which poses a risk to the health of patients suffering from tuberculosis that are treated there. Hence, it is crucial to create appropriate conditions, including the urgent repair of the building, to ensure the patients' right to health.

During the monitoring in the hospital's pharmacy, it was observed that there is no specific door at the entrance of the room where psychotropic drugs are stored, contrary to the relevant regulations.

During the inspection of the Intensive Observation of Compulsory Treatment Unit of the institution, it was observed that while some camera-type wards have televisions and air conditioners, others do not. This shortage can be considered a violation of the principle of equality in ensuring the rights of patients.

There were several shortcomings in the documentation in the unit, including improper recording of patient admission and discharge, blank signature spaces, and corrections in some notes.

During the inspection of the hospital's premises, it was found that several patients were engaged in forced labor and the issue has been addressed after being raised before the Ministry of Health. According to the UN Principles for the Protection of Persons with Mental Illness and Improvement of Mental Care, in no circumstances shall a patient be subjected to forced labor. In order to strengthen control over such occurrences, it is crucial to adopt appropriate regulations.

A monitoring visit was held at the *Sumgayit City Psychiatric Hospital* under the Ministry of Health. It was observed that the right of female patients to walk outdoors, unlike male patients, was not ensured, and the management of the institution cited the pandemic as the reason. As it is known, patients should have the opportunity to take a daily walk in the open air. Therefore, it is important to increase attention to ensuring the rights of patients.

During the monitoring, it was determined that social-psychological rehabilitation measures were almost not taken, and the treatment was limited to pharmacotherapy. In addition, occupational therapy, group therapy, art, drama, music, and sports activities for the patients were not conducted. There was a lack of a treatment-production area for patients to engage in new professions and work reintegration. Furthermore, there were no specific production areas with gentle working conditions.

It was found that there is no individual treatment plan reflecting information on the goals and methods of patient treatment. According to the CPT standards, the treatment plan for each patient should be developed based on an individual approach, and in line with Article 15.0.8 of the Law of the Republic of Azerbaijan "On Psychiatric

Care," for the occupational therapy of persons with mental illness, learning new work skills and work reintegration specific production areas with gentle working conditions should be established.

Considering the above-mentioned observations, it is recommended that the institution avoid limiting treatment to pharmacotherapy, organize psycho-social rehabilitation measures according to modern standards, particularly transforming occupational therapy into an integral part of long-term treatment, encourage patients' participation in the formulation of treatment plans, create specific production areas, and prepare individual treatment plans reflecting treatment objectives, therapy methods, and the responsible caregivers' names for each patient.

It was observed that in order to improve the conditions of detainment in the treatment facility, the Hospital needs comprehensive renovation.

It was also seen that the menu is prepared not on a weekly but on a daily basis; a board was written by chalk, and the ration of fruits and vegetables is not adequate to nutritional norms. Therefore, it is essential to organize the menu in compliance with appropriate regulations and arrange the rations based on nutritional standards.

The documentation had several shortcomings. During random checks of documents, it was determined that some papers lack the signator's personality and on blank parts of a few documents, stamp and signature were placed with a date later than the date of the inspection (e.g. the inspection took place on August 27, 2021, but the stamps and signatures were dated August 31, 2021).

Besides, there were shortages in the registration of psychotropic drugs. The number of existing drugs did not match the quantity of drugs registered.

It's important to note that following the inspections conducted at the Republic Psychiatric and Sumgayit City Psychiatric Hospitals, the Ministry of Health was notified, outlining identified deficiencies and shortages along with necessary recommendations for their resolution. The response received provided information about the measures taken to address the discrepancies.

Members of the NPG conducted a scheduled visit to the *Lankaran City Psychiatric Hospital*. The purpose of the visit was to assess the conditions of treatment, patient care, quality of nutrition, access to medical-social services, investigation of incoming applications, situation regarding ensuring the rights of hospitalized patients, proper documentation, and follow-up on the implementation status of recommendations previously given to eliminate shortages during the time of the special quarantine regime due to Covid-19.

Interviewing with male and female patients treated there, the issues related to their medical treatment, health condition, medication intake, and the effectiveness of psychiatric care, and whether their rights were being violated, were investigated. Patients did not complain about their treatment, healthcare conditions, food, medication supply, or the quality of medical care services.

While investigating the organization of medical care, the chief physician mentioned that there were 4 physicians working in the institution, highlighting this as a shortage and

added that younger physicians were not interested in working in psychiatry. Furthermore, it was also said that due to Covid-19, the visits of relatives of patients had been restricted.

Upon inspection of the food supply area, it was observed that there was a shortage of supplies. The person-in-charge said that the supplies decreased because that was the end of the month and assured that the supply department would replenish them. The NPG Members emphasized the urgency of resolving this issue.

During the inspection, it was observed that the shortages identified during previous visits had been overcome and the NPM recommendations had been implemented by the institution.

Moreover, a scheduled monitoring visit was carried out at the *Gazakh Inter-district Psychiatric Hospital*. This hospital encapsulates the Gazakh, Aghstafa, Tovuz, Ganja city, Shamkir, Gadabay, Samukh, Goygol, Dashkasan, Goranboy, and Yevlakh districts and has a capacity to accommodate up to 100 patients. There was a shortage of physicians in the hospital.

It was found that some of the previously identified shortages had been resolved. An area for practicing religion and a library had been established.

As well, it was determined that the Hospital's building was old and was subjected to natural wear for many years, and all these necessitate regular, ongoing repair work. Hence, it is necessary to construct a new building. According to information provided by the institution's management, a site has been allocated within the Qazakh district for the construction of a new building. Project documents have been prepared, and in the near future, construction will commence.

Apart from this, a monitoring visit was implemented to the *Guba Interdistrict Psychoneurological Center*. The objective of this visit was to assess the conditions of treatment, healthcare, the situation regarding ensuring the rights of treated persons, and the status of appropriate documentation in the institution.

The wards, kitchens, and administrative rooms were inspected to assess the healthcare conditions. The food supply, access to hot and cold drinking water, and documentation were monitored.

NPG members interviewed 4 people treated there in a confidential manner to investigate their treatment by the staff. The situation with ensuring their rights and the documentation were investigated.

Subsequently, a legal-raising talk was held with the institution's management and responsible staff members, where they were reiterated about national and international legal requirements and provided with recommendations to improve the healthcare conditions.

NPG members conducted a scheduled visit to the *Lankaran Regional Narcology Hospital*. The objective of the inspection, conducted in line with the OPCAT, the Constitution Law on the Ombudsman, and the requirements of Law on Narcological Services and Control of Azerbaijan, was to investigate the healthcare conditions and treatment, as well as issues related to nutrition, medical supply, and others.

The wards, admission, medical nurse rooms, baths, disinfection rooms, kitchens, and other facilities were inspected to assess the conditions, lighting, ventilation, and sanitary state of the area.

In addition, 6 people under treatment in the Hospital were interviewed to discuss their treatment, rights, the state of their health, and ensuring their well-being.

At the end, the objectives and basic principles of narcological service, general terms of implementation, specialized narcology care, the importance of implementing measures for treating drug-addicted persons and integrating narcology patients into society, and other significant issues were discussed with the management of the health facility and provided with recommendations on how to improve healthcare conditions in line with national and international legislation.

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

Under the NPM mandate of the Ombudsman, 33 monitoring visits have been implemented at the institutions under the Ministry of Education without prior notice. During these visits, considering international experience, the resident conditions and treatment in these institutions, as well as the practical application of national and international standards in this field, were investigated.

Out of the monitoring visits, 16 were carried out in integrated training boarding schools, 7 in special boarding schools, 4 in general education boarding schools, 4 in special training and education institutions, and 2 in sanatorium-type general education boarding schools.

A total of 7 monitoring visits were conducted, including 1 outside the plan, to Special Republican Boarding Schools No. 3, 4, and 5, as well as to E. Guliyev Special Boarding School No. 9 for children with limited health capabilities, all of which are located in Baku. The objective of these visits was to monitor on the spot, the situation regarding the rights of children being educated in special boarding schools, the conditions of the institutions, treatment issues, the quality of nutrition, the relevant documentation, track the implementation of the previously given recommendations, and investigate a complaint by M.I., which was received through the Ombudsman's 916 Call Center.

During the monitoring conducted at the Special Republican Boarding School No. 5 for children with limited health capabilities, it was found that there were no Braille textbooks for X, XI, and XII grades' students with visual impairments. The school principal said that he had reportedly made several appeals to the Ministry of Education regarding this issue since 2018, indicating that the printing process was currently underway and assuring that this problem would be resolved in the new academic year. However, during the follow-up visit, it was seen that the problem had not been resolved. During interviews, students expressed distress about this issue, while teachers reported that it decreased the effectiveness of their lessons.

In the 2021-2022 academic year, 33 students in grades of X-XII with visual impairments were not provided with textbooks. Considering the number of students in previous years, it can be inferred that there is a systematic failure to ensure the educational rights of these children. Furthermore, staff also highlighted that there is a need for literary works printed in Braille in the library.

In addition, the dormitory had inadequate lighting, which did not meet the appropriate standards, and relevant recommendations were provided to the school management. Upon a subsequent monitoring visit, the problem had been resolved.

During a follow-up visit to the *Special Republican Boarding School No. 5 for children with limited health capabilities*, it was found that the documents concerning temporary leave of children from the institution that were absent during the previous visit, and the relevant documentation have been processed following the NPG recommendation.

Besides, in the confidential meetings with children held during the follow-up visit, it was seen that the previously observed problem concerning nutrition had been addressed.

During the inspection of the school's storage, it was found that tools for learning the Braille alphabet were not used. In the classrooms, there were a limited number of these tools (1 tool for every 2 rooms) and they were unused. The school director was informed about these shortages, and during the subsequent visit, it was observed that the children had been provided with the necessary equipment.

In the course of the monitoring visit in *Special Boarding School No. 9*, it was determined that there was no material or technical base, including workshops, while in *Special Boarding School No. 5*, these classes were not consistently conducted, despite vocational training being launched.

To investigate the incoming call by M.I. to the 916 Call Center, individual and group meetings were held in four different classrooms at *Special Boarding School No. 9*. It was observed that students generally showed a positive attitude towards the school and their teachers, displaying enthusiasm for attending. However, there were shortages of nutrition.

It was identified that during the time allocated for speech therapy activities for the children, there were clashes with class schedules. This issue was explained to the school administration within the requirements of the legislation. During a follow-up visit to the institution, it was found that the problem had been resolved, and speech therapy sessions were conducted separately from the educational process without hindering classroom time.

At *Special Boarding School No. 9*, a psychologist had not been active since 2020, but during the subsequent monitoring the new specialist was recruited for the vacant position.

In addition, the issue of inadequate storage of personal hygiene items for girls in the designated bath area was resolved. Children's belongings were individually labeled (with their names written on the items) and were observed to be stored in a manner compliant with sanitary and hygienic standards.

Concerning the previously identified issue of rude behaviour, 3 staff members of the institution were formally warned in writing due to their misconduct.

During the monitoring of the Republic Special Boarding School No. 3 for children with limited health capabilities, it was determined that the institution's living conditions did not

meet recognized standards. Despite having a considerable number of buildings, approximately 2/3 of them were occupied by refugee and internally displaced families. There were issues with overcrowding in the children's dormitories, insufficient lighting, and inadequate living conditions. The facility required significant renovations.

In the Republic Special Boarding School No. 4 for children with limited health capabilities who are deprived of parental care, it was determined that the institution's regulations were approved in 2005. The institution's name remained "The Republic Auxiliary Boarding School for Orphaned and Parentally Deprived Children," and no changes related to the institution's activities were identified in the documentation.

In general, during the monitoring of special boarding schools, it was revealed that there were no existing state standards for special education and no curriculum. Moreover, graduates of schools equipped with the appropriate educational-material base were not provided with any documents related to vocational education. Also, there were no specific state standards or educational programs for vocational education.

There were inconsistencies between the methodological tools available for parents and teachers in these special boarding schools. It was disclosed that in these schools there was a lack of comprehensive examinations, analyses, and the creation of individual development plans to determine the psychological state, educational achievements, and areas of interest of the students.

Overall, there is a need in these institutions to develop individualized development plans for children with limited health capabilities, to carry out complex student-oriented measures in collaboration with other educational workers, and to equip psychological cabinets with didactic materials.

In 2021, a total of 16 scheduled monitoring visits were conducted in Integration-oriented Boarding Gymnasiums located in Baku, Sumgayit, Ganja, Balakan, Goranboy, Tovuz, Salyan, Siyazan, Sheki, Mingachevir, and Zaqatala.

The objective of these monitoring visits was to investigate the situation regarding ensuring the rights, conditions, treatment, and quality of nutrition of the children being educated in the Integrated Training Type Boarding Gymnasiums and the relevant documentation.

During a confidential conversation held with 4 randomly selected children at the *Sheki City Integrated Training Gymnasium of Boarding Type*, 3 children said that they were mistreated. In order to investigate the matter, the Ombudsman corresponded with the Ministry of Education. In the letter of response, it was indicated that due to serious deficiencies in the institution's supervision and activities, the employment contract of the gymnasium's director was terminated. Alike, the chief accountant of the boarding facility was reprimanded for inadequate performance of duties and other shortages. Furthermore, the response highlighted that the Department for De-institutionalization and Child Protection was tasked with holding awareness talks with the management of other educational institutions under the ministry's jurisdiction, and strengthening supervision in this area to address shortcomings.



At the *Sumgayit Integrated Training Gymnasium of Boarding Type*, it was identified that children were engaged in speech therapy during the class time and the facility's management was informed about the legal requirements regarding this matter.

During the monitoring visit to the *Goranboy City Integrated Training Gymnasium of Boarding Type named after R. Agakishiyev*, it was found that the building of the facility should be repaired. The dormitories, library, and sports hall were found to be in emergency condition. It was found that due to the malfunction of the boiler system, electric heaters were being used, and safety norms were not observed.

The institution needs to be equipped with didactic materials for organizing psychological services. There are deficiencies in medical services, specifically the lack of necessary medical supplies in the medical room.

In the *Govlar City Integrated Training Gymnasium of Boarding Type*, there is a need for didactic materials as well. In the *Gancja City Integrated Training Gymnasium of Boarding Type*, it was found that the speech therapist position has been vacant for a long time.

The NPG members conducted a monitoring visit to the *Siyazan City Integrated Training Gymnasium of Boarding Type*.

During the monitoring, it was found that several previously existing deficiencies had been eliminated. E.g., the gymnasium's sports hall and sanitary facilities have been repaired, and the overall area has been cleaned.

In this facility, some medications had expired, and shortages were discovered in provision of drinking water for the children. At the end, a legal awareness talk was conducted with the management and responsible staff members of the institution, and relevant recommendations were provided.

A monitoring visit was conducted at the *Zaqatala City Integrated Training Gymnasium of Boarding Type*. The institution, which has been built since 1960, inaugurated a new building in May 2009. Nevertheless, there was a significant need for substantial renovation.

In the medical facility, the outpatient registration book, as well as the daily examination register for students, have not been sealed or properly optically bound. There is no refrigerator for storing medical drugs. At the end of the monitoring, the found shortcomings have been brought to the attention of the gymnasium's management, and recommendations have been provided regarding medical services and documentation.

The NPG members implemented a monitoring visit to the *Mingachevir City Integrated Training Gymnasium of Boarding Type*. Although significant overhauls were carried out in the building, a part of the building remains occupied by a refugee family, preventing the repair of that particular section. The person acting as the director of the gymnasium, who is a member of the refugee family, has indicated that the renovation cannot be done as they are unwilling to move to the proposed location.

There is no medical room in the gymnasium. Medical drugs are stored in one of the rooms in the building and there is no refrigerator for the storage of drugs. During the review of the medical journal, no records were made about the health conditions of the staff and the students.

Monitoring visits were conducted at *the Guba City General Secondary Boarding School for Children Deprived of Parental Care* and *the Khinalig Village Boarding General Secondary School named after R. Kelbiyev*.

The purpose of the monitoring visits to the secondary boarding schools was to investigate ensuring the rights of children, the living condition of the facilities, the treatment standards, the quality of food, and the processing of proper documentation.

In the *Guba City General Secondary Boarding School for Children Deprived of Parental Care*, it was observed that there are two complex classrooms. In one class, students from the 1st and 3rd grades were educating together, while in another, students from the 2nd and 4th grades were educating together. This matter has been reported to the institution's management, and the Ministry of Education has been made repeated appeals regarding this situation, which creates difficulties for both teachers and students.

In both institutions, it was observed that the psychologist positions were vacant, there were no individual development plans for children, and there was a lack of practically implemented measures for their social rehabilitation and integration.

The purpose of the visit conducted at the *Guba Vocational School* was to monitor the overall situation regarding the rights of the children in the institution, follow-up on the measures taken in line with previously given recommendations, the conditions, treatment, quality of meals, and compliance with the appropriate documentation.

During the monitoring there, it was found that the conditions for accommodation were unsuitable for the children, and the building itself was in a dilapidated state. Furthermore, it was found that the institution did not meet the goals on behavioral correction and adaptation to society, as well as ensuring medical, social rehabilitation, psychological rehabilitation, and educational conditions for the children, established in the "Model Regulations on Special Open and Closed Type Education Institutions," approved by the Cabinet of Ministers of Azerbaijan on May 13, 2003, were not properly provided.

It was determined that within the past two years, in the institution, traditional and online classes were not regularly conducted; and professional and vocational training was quite inadequate and irregular, especially in recent months. Furthermore, there was no psychologist and measures for social rehabilitation and integration of children were not carried out. The conditions of the classroom and dormitory were not satisfactory and the facility building was in urgent need of renovation, along with the renewal of equipment. Also, there was a need for the renewal of equipment; medical room was not working, and there were inadequate facilities for washing clothes and bedding. In the food storage, shortage of and expired food, as well as shortcomings in documentation have been identified.

In 2021, scheduled visits were carried out at sanatorium-type boarding schools No. 10 and No. 8. The objective of these monitoring visits was to assess the situation regarding ensuring the rights of children educated in these facilities, the living conditions of the institutions, treatment issues, the quality of nutrition, and the relevant documentation.

It was found that the Sanatorium-type boarding school No. 8 was in need of repair. In addition, there are serious concerns about the cruel treatment of the students. The matter has been brought to the attention of the Ministry of Education.

### **2.2.6. Institutions of the Ministry of Labor and Social Protection of Population**

Under the NPM's activities, a total of 6 monitoring were conducted without prior notice in the institutions of the Ministry of Labour and Social Protection of the Population.

The NPG members conducted a scheduled visit to the *Shelter and Social Rehabilitation Institution for Vulnerable Groups of the Population subordinated to the Social Services Agency of the Ministry of Labour and Social Protection of the Population*. During the visit, a confidential meeting was held with one resident of the Institution and the living conditions and treatment issues were investigated. That person's complaint addressed to the Ombudsman was accepted for the investigation.

NPG members conducted a visit to the *Social Service Institution No.1 for children with limited health opportunities of the Ministry of Labor and Social Protection of the Population of the Republic of Azerbaijan*. The objective of the visit was to monitor the living conditions and treatment by the staff towards the resident children from various age groups in the institution, and the situation regarding ensuring the rights of these children.

It was observed that 1 psychiatrist and 3 social workers' positions were vacant in the facility. Furthermore, it was added that psychologist and child development expert positions were not included in the staffing schedule.

When observing the children's bedrooms, it was observed that their beds were placed quite close to each other and the rooms were damp. In addition, in the sanitary facilities standards and rules were violated.

Upon reviewing documents, it was found that there was an individual plan for each child to receive social services, but it was not regularly updated.

At the end of the visit, discussions were held with the institution's management to address the identified shortcomings, and appropriate recommendations were provided to improve the living conditions.

The NPG members conducted a scheduled visit to the *Social Service Agency's Facility for the elderly* without prior notice.

As part of the visit, individual rooms in both of the buildings of the facility, medical room, the dining hall, storage, laundry, the on-call section, and other areas were monitored. The existing living conditions, nutrition, provision of water and heating, outdoor time, visitation, the organization of medical services, and documentation were also investigated. Meetings were held with staff and residents of the facility.

A meeting with the director of the facility was held to gather general information about the establishment. It was reported that the facility was designed for persons aged 70 and above.

It was also observed that the problems identified during previous monitoring remained unresolved. It was determined that there was a need for significant repairs in the dormitory and dining hall areas, as well as the renewal of equipment. The lighting and installing surveillance cameras should be installed in the rooms.

The conditions in the medical unit of the institution were found to be satisfactory, and during the monitoring, the residents expressed satisfaction with the services of the medical team. It was determined that the medical storage had a sufficient quantity of medication.

However, during the monitoring, it was also observed that the condition of the bedrooms was not satisfactory. For instance, it was revealed that the air conditioning system was not working, there were no help signal buttons, some room doors had problems, inadequate artificial lighting did not meet standard technical requirements, some rooms were unclean, and, overall, the dormitory was in need of substantial repairs.

During the visit, in the institution's dining area, expired food items were discovered in the refrigerator.

In the facility, only one psychologist works in accordance with the staffing schedule.

The NPG members held several interviews with various residents and conducted relevant discussions to investigate the treatment of residents.

At the end of the visit, a final conversation was held with the director of the social institution, where the findings and their solutions were discussed and certain recommendations were provided.

A scheduled visit was conducted at the *Ganja City Psycho-Neurological Social Service Institution No. 4* under the Social Services Agency of the Ministry of Labor and Social Protection of the Population.

During the visit, the administrative building, the dormitory, including an additional ward with a capacity for 50 patients, especially those suffering from infectious diseases, the dining hall, kitchen, food storage, bathroom, and sanitary facilities were inspected. Consequently, it was observed that high-level repairs and renovations had been carried out, and the wards were equipped with all necessary amenities for living, heating systems, and air conditioners. Each room had its own bathroom and toilet.

During conversations with the residents of the institution, no complaints regarding the conditions of accommodation and treatment were reported.

Furthermore, several shortcomings were found in the institution. According to Article 3.1.3 of the institution's Regulations, in order to provide social services to admitted persons and organize their social rehabilitation, the preparation of an agreed individual plan and to provide services and implement the rehabilitation of these individuals based on these plans is the responsibility of the institution. However, it was determined that no individual plans were prepared.

Furthermore, according to Article 3.2.10 of the noted Regulations, internal disciplinary rules should be established; however, it was found that these rules were not formulated. Therefore, it is essential to promptly establish internal disciplinary regulations to precisely define the rights and duties of both the residents and the institution's staff, as well as their routine activities.

It is necessary to register the implementation of residents' right to secrecy of correspondence (letter communication, receiving and sending packages, parcels and banknotes, using phones and other means of communication, meeting with relatives, and having access to other services) with the aim of ensuring their rights and preventing abusive

and negligent behavior towards them. However, it was determined that such registration was not carried out. Also, there is a need to install informative boards about the rights and duties of residents within the institution.

During the personal body search of persons admitted to the institution, no search protocol was documented; instead, brief notes were made on their personal medical records. Furthermore, it was reported that, along with females, in most cases, the personal body searches were carried out on men by female employees (nurses) at the institution, which violates the requirement for same-gender searches.

It was also found that the disabilities of 25 residents, suffering from various mental health problems, have not been determined, and there was a lack of referrals to the State Commission in this regard.

### **2.2.7. Institutions of the Local Executive Authorities**

In 2021, a total of 11 monitoring visits were carried out in institutions under the jurisdiction of local executive authorities.

The NPG members conducted a scheduled visit to the *Ganja Children's Home*. This Home is designed for children between the ages of 3 and 18 and accepts each child based on the order of the local executive authority. The institution is staffed by 50 specialists responsible for the education and upbringing of children. The services are provided by psychologists, social workers, and social service specialists. Furthermore, there is one child with speech disorder, and for his education, a speech therapist (logopedist) working in the No. 2 City Polyclinic was working with this child.

During the visit, a meeting was held with the resident children to assess their general conditions (clothing, room heat, cleanliness of bed linens, basic amenities, etc.) were found satisfactory.

The institution's management has reported that the norms regarding nutrition and clothing, established in the "Nutrition standards for children in kindergartens, orphanages, and pre-school children's sanatoriums," approved by Cabinet of Ministers Decision No. 130 dated March 9, 1994, and the norms of provision of clothing, shoes, and soft inventory for children in children's homes approved by Cabinet of Ministers Decision No. 15 dated January 17, 1994, do not meet current requirements and the specific needs of the children based on their ages.

In addition, during the monitoring of the children's home, it was determined that it was necessary to complete additional work in the new building, construction of which began in December 2018, and the heating boiler room for improving living conditions and heating system.

The NPG members carried out a visit to the *Sheki Myxed Type Children's Home*, the aim of which was to investigate the living conditions and treatment of children of various age groups residing in the institution, by the staff and the situation regarding ensuring their rights.

During the visit, various rooms designated for sleeping, studying, and leisure time in the institution, along with the medical room, the kitchen, the dining room, and the food storage area, were monitored.

Following quarantine regulations, a talk was held with the institution's management, psychologist, other staff, and the children to investigate related to treatment of the children.

The director of the Sheki Mixed-Type Children's Home reported that the pediatrician position has been vacant for a long time and that there is a lack of staff. The director also added that classes were conducted online; however, due to the slow internet speed, they had difficulties in the teaching process.

During the visit, it was observed that the ventilation system in the food storage area was not operating. The institution's management justified this issue with the limited electrical energy available, indicating that the continuous operation of the ventilation system was not possible due to insufficient energy allocation.

The MPG members conducted an unscheduled visit to the *Lankaran City Mixed-Type Children's Home named after O. Mirzayev* without prior notice. The dormitories for boys and girls, study and recreation rooms, the kitchen, food storage, bathroom, and other auxiliary rooms were monitored. The organization of medical services, nutrition, supplies and documentation were thoroughly reviewed.

Furthermore, it was reported that the pediatrician had resigned by personal request, and another physician would be recruited.

In accordance with quarantine rules, a talk was held with the institution's management, other staff, and the children to investigate issues related to the treatment, physical and spiritual development of the children.

It was observed that the institution ensured children's participation in online lessons during the pandemic.

As a result of the visit, the institution's management was provided with recommendations to further improve the activities of the employees of the institution' in order to more effectively protect child rights.

The NPG members conducted scheduled visits to *Baku City Children's Home No. 2* without prior notice. Overall, it should be noted that during the follow-up visit, it was observed that the previously given recommendations were taken into account.

With the Ombudsman's intervention, the equipment in the pre-school-age group of the institution was renewed considering the age and development of children.

However, the Home did not comply with sanitary-hygienic standards. The poorly maintained shower taps in the bath area located in the courtyard were repaired and replaced.

During the previous monitoring, it was found that in the last 36 months, children were not preventively vaccinated in compliance with the Law of the Republic of Azerbaijan "On Immunoprophylaxis of Infectious Diseases", and, likewise, the children were not medically examined as stipulated in the Law of the Republic of Azerbaijan "On Compulsory Medical Examination of Children" during the observation period. In the follow-up visit, it was found that children have been vaccinated and undergone medical examinations.

During the monitoring, the Ombudsman's poster for the 916 Call Center was placed next to the telephone set.

Upon examination of the children's bedrooms, it was determined that the children were not grouped according to age categories in accordance with standards. The beds have been placed very close to each other. There was a need for repairs in certain parts of the institution.

In order to conduct psychological work with children, it was seen that there were 1 psychologist and 2 speech therapists in the institution. During discussions with employees, they expressed their willingness to participate in specialization and training programs and requested assistance in organizing events in this direction. The institution's management also pointed out that the staff did not attend any specialization programs or training courses in recent years. The Ombudsman has raised these issues before the Baku City Executive Authority and demanded to solve it.

During the monitoring, it was observed that the institution has 1 dentist, 2 physicians, and 4 nurses. In line with the recommendations, the dental cabinet was found to be functioning and registration records were maintained. However, it was revealed that children had not undergone orthodontic examinations and treatments, and appropriate recommendations were made regarding this matter. Apart from this, the children were vaccinated and underwent medical examinations.

While examining the food storage, it was found that meat products were not sealed, and the meals served in the cafeteria did not meet the required standards.

It was observed that the shortage such as the storage of preparatory school books in the storage room where chemical products were stored, and not using them during educational activities, had been eliminated. Upon inspection of the classroom for children of preparatory school age, it was found that the room was provided with appropriate teaching materials.

In accordance with the previous recommendations, for efficient organization of the children's leisure time, an additional 2 (previously 4) children in the music school and 25 children in the sports club were registered.

The children were provided with information about the Ombudsman's activities in the field of children's rights and the 916 "Call Center".

The visits were conducted at *the Baku City Children's Home No. 3*. An initial visit was conducted earlier in the year, and a follow-up visit was carried out towards the year's end to monitor the implementation of the earlier recommendations made during the initial one.

It must be noted that during the follow-up visit, several shortcomings observed have been eliminated.

Following the Ombudsman's recommendation for effectively ensuring the rights of children to education and preventing online truancy, cameras in the institution were installed on computers; for improving the conditions, sanitary facilities, faucets and other utilities have been repaired or renewed, and measures have been taken to ensure the hygienic storage of the children's personal belongings.

The discrepancy between the number of lockers and the quantity of beds in the facility was reported to the institution's director, who assured that the issue would be promptly addressed.

The medical doctor at the institution highlighted difficulties encountered in conducting dental examinations and treatment, requesting assistance in this regard.

It was observed that psychological work with children was being carried out by a psychologist, but other staff members, aside from the psychologist, who directly interact with children, appeared to have lower levels of knowledge and skills related to child development. The institution's director said that staff had not participated in any specialized training or development programs in recent years.

At the conclusion of the monitoring visits, a meeting was held with the institution's management, the requirements of the legislation on the elimination of the shortcomings were explained, and recommendations were provided regarding the issues that could be resolved immediately.

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

A scheduled visit was carried out by NPG members to the *Immigration Detention Center for Irregular Migrants* of the State Migration Service (SMS) in the Yevlakh district.

The objective of the visit organized in compliance with the requirements of the OPCAT and the Constitutional Law on the Ombudsman of Azerbaijan was to investigate detention conditions, treatment, the situation regarding ensuring the rights of detained persons, the relevant documentation, and follow-up on the implementation of the previously given recommendations and suggestions.

During the visit, the administrative building of the Immigration Detention Center, the buildings for voluntary and involuntary migrants, the kitchen, canteen, laundry room, bathroom, food storage, visitation, medical and other service rooms, sports field, and service vehicles used for transportation were inspected.

Although the general conditions in the Center are acceptable, several shortcomings were observed during the monitoring visit.

In the meeting room, it has been observed that there were not a box for applications and complaints, information boards about the rules for receiving and delivery of parcels to the migrants detained in the Center, a list of prohibited items and the responsibilities outlined in normative acts regarding the handling of prohibited items through inspection or any other means (delivery or transfer) in a visible place in violation of the 14.28 clause of the "Internal Disciplinary Rules for Immigration Detention Center for Irregular Migrants". Furthermore, it was found that there is no heating system in the meeting room.

It has been determined that, at the Center, there is no appropriate phone conversation area to ensure the right to phone contact of foreigners and stateless persons envisaged by Article 87.1.20 of the Migration Code of the Republic of Azerbaijan. It was also found that when foreigners and stateless persons need to use their right to phone contact, they use personal mobile phones under surveillance or, in the absence of such mobiles, they use the personal mobile phones of center staff.

Despite the requirement of Article 19.2 of the "Internal Order Regulations of Immigration Detention Centers for Irregular Migrants," it has been determined that there is



no medical worker at the center. At the Center, there is only 1 female paramedic from the migration service, who was involved in both medical examinations and personal searches of female migrants.

It was observed that in the medical room of the center, storage rules for medicines were not observed; specifically, medicines were stored in a storage for clothing. In addition, migrants admitted to the Center were not subjected to anti-covid-19 testing during the new Covid-19 pandemic.

Furthermore, it was reported that the migrants brought to the center were not provided with appropriate tests for HIV/AIDS-related checks, despite having finished more than 2 months and applying to the SMS.

In all rooms of the building for the involuntary detained migrants, including the rooms where migrants stay during the day and night, it has been discovered that hidden surveillance cameras were installed. Through these cameras, the detainees are monitored without their knowledge by facility staff for 24 hours. It was also found that the camera coverage includes the entire area of the beds, but only partially the toilet rooms.

Furthermore, it has been recommended to fully and appropriately complete the personal files of the detained migrants, to improve the documentation, and to replace the observation windows on the doors of cells and tableware used for providing food to the migrants held in closed regime with non-breakable materials to prevent any self-harm.

A visit was conducted to the *Baku Immigration Detention Center for Irregular Migrants* under the State Migration Service. The NPG members monitored the dormitory blocks, living and medical rooms, interview rooms, the canteen, food storage, and other facilities, and investigated the existing situation and documentation related to meals, leisure, and phone conversations.

In general, it was determined that the necessary measures for the protection of the rights and freedoms of the irregular migrants placed in the Center have been implemented and that the conditions created there comply with international standards.

However, it was observed that the work for significant renovation of the building for migrants under compulsory detention has been temporarily halted.

During the visit, detainees, a British national A.E. and a national of Tajikistan A.G., were confidentially interviewed to investigate the treatment issues. They did not complain about their detention conditions and treatment. The British citizen's request was appropriately solved, and he thanked the Ombudsman.

Subsequently, a legal awareness talk was held with the institution's management and staff based on national and international legislation. The recommendations for ensuring the establishment of conditions for conducting COVID-19 tests within the facility, among others were provided. In addition, posters reflecting information related to the Ombudsman's Call Center were presented.

The Ombudsman requested all the findings the State Migration Service and provided her suggestions and recommendations as well. In the response letter from the State Migration Service, it was stated that relevant actions are ongoing for the elimination of shortcomings and implementation of the suggestions and recommendations.

## Chapter 3

### Legal Analysis

One of the Ombudsman's activity directions under the NPM jurisdiction is the legal analysis of information obtained during monitoring visits and legal awareness-raising activities.

The effective organization of legal analysis has become one of the key issues for the Ombudsman's NPM activities.

To ensure the prevention of torture and ill-treatment, recommendations and suggestions were developed to improve the existing normative-legal framework based on the findings.

The right related to submission proposals and observations concerning the existing and draft legislation within the framework of the NPM legal education-related activity is directly envisaged under Article 19 of the OPCAT.

During the process of legal analysis, the overall activity, the collected information, and existing legislative acts are theoretically and practically analyzed, and the findings are summarized.

During visits conducted by the members of the NPG, interviews with persons held in places where persons cannot leave at their own will, and complaints received by the Ombudsman, and phone calls incoming to the Ombudsman's 24-hour Call Center were various sources for analysis.

#### ***Legislative improvement:***

In some instances, it was not possible to make an accurate assessment of the health condition of detainees and convicts, including complications, and to ensure the effective organization of comprehensive medical examinations and treatment due to the lack of certain medical equipment and specialist medical doctors required for specialized medical examinations in the Treatment Facility of the Penitentiary Service. Furthermore, some necessary examinations and treatments could not be carried out in medical institutions subordinated to the TABIB as the legal provisions for compulsory medical insurance do not cover individuals detained in penitentiary institutions.

Thus, detainees and those, who sentenced to determinate sentencing (deprivation of their liberty for a certain term), and individuals sentenced to life imprisonment (except for open type penitentiary institutions), have not been included in the category of the insured under Article 15 (2) of the "On Health Insurance" of the Republic of Azerbaijan.

As can be seen, the norm does not provide the detainees, or those who are sentenced to a determinate sentence (imprisonment for a certain time) and life-imprisoned persons with comprehensive medical examination and treatment at the state expense.

*(Case No. 22336-21): Applicant M, who was detained in the Sheki Penitentiary Institution complained that surgery, which was assigned to him according to the results of the medical examination, was not implemented by the Treatment Facility of*

*the Penitentiary Service, and requested relevant assistance due to his financial hardship.*

*According to the TABIB's response letter, it was not possible to implement the surgery under the Health Insurance Law.*

Considering the aforementioned and to ensure effective protection of the rights to health of detainees, persons, who are sentenced to a determinate sentence and life-sentenced prisoners, it is necessary to make appropriate additions and amendments to relevant legislation concerning rendering required health services in other health facilities at the state expense if such services are not able to be provided in the Treatment Facility of the Penitentiary Service.

In the 2020 report, the Ombudsman proposed to provide opportunities for incarcerated people to contact their family members and close people through video calls and suggested relevant amendments and additions to the Code for Execution of Punishments.

It is noteworthy that the Ombudsman's relevant proposal was considered by the Ministry of Justice of Azerbaijan and included in the draft law on amending the noted Code. The draft law was sent to the Ombudsman for the provision of feedback and relevant opinions and recommendations. Welcoming this draft law, the Ombudsman also made additional suggestions to the Penitentiary Service of the Ministry of Justice.

The Ombudsman has repeatedly proposed providing female inmates with hygiene products and supplying baby diapers to inmate women with children under the age of three in the penitentiary facilities. Our analysis has revealed that the provision of hygiene products and baby diapers to female inmates is ensured by the state funds allocated for the maintenance of the Penitentiary Service. However, this issue has not been covered in the legislation.

Another aspect taken into consideration by international standards is the provision of hygienic products. National legislation must come up with its own answer to this problem.

It should be noted that the Ministry of Justice's Penitentiary Service prepared a draft Order concerning the Cabinet of Ministers' Decision No. 154, on amending the dated September 25, 2001, "On the approval of the norms of food and household items for prisoners." In this regard, the Ombudsman was asked to review opinions and suggestions about this draft, which considers the provision of hygiene means and diapers. The Ombudsman, in her turn, welcomed the draft and made a recommendation regarding the quantity of items provided and submitted her response letter to the Penitentiary Service. The Ombudsman takes the view that it is necessary to reflect these issues in national legislation in a short time.

***Conditions of detention:***

In some institutions under the Penitentiary Service, there are still shortcomings. During the reporting period, it was determined that while in some institutions, there is a need for current repair work, complex repair and construction work is necessary in Pre-trial Detention Facilities No. 2 and No. 3, in the Penitentiary Institution No. 4, in the

correctional facility, and in the Prison. Furthermore, the process of relocating these mentioned institutions to newly constructed buildings should be expedited.

One of the main concerns regarding detention conditions is overcrowding. All the services and activities within a facility will be adversely affected if it is required to cater for more detainees than it was designed to accommodate; the overall quality of life in the establishment will be lowered, perhaps significantly. According to the CPT, the level of overcrowding in a facility, or in a particular part of it, might be such as to be in itself inhuman or degrading from a physical standpoint.<sup>1</sup>

The issue of overcrowding in detention facilities under the Penitentiary Service remains relevant, and it has been particularly emphasized as a concerning matter during the pandemic. *The Ombudsman also stresses the importance of selecting alternative measures of restraint to imprisonment as a solution to addressing the problem of overcrowding in pre-trial detention facilities.*

The problem of overcrowding is not just about pre-trial detention facilities. There was overcrowding in the penitentiary institutions monitored. For example, during the reporting period, it was determined that there were 379 people at the time of the visit in the 4th penitentiary institution intended for 350 people. Although the total number of inmates in some institutions was less than the detention limit, some cells were empty, and in some 3-person cell, 4 people were kept (Penitentiary Institution No. 6).

One of the issues concerning the detention conditions that were given consideration is the separation of detainees into various categories, such as accused from convicted, men from women, minors, and adults. During the monitoring visits conducted throughout the year, it was observed that minors were held together with adults in pre-trial detention centers under the Penitentiary Service. This contradicts Article 30 of the Law of the Republic of Azerbaijan 'On Ensuring the Rights and Freedoms of Persons Held in Places of Detention.'

*The Ombudsman takes the view that minors should be placed in conditions that protect them from harmful effects as much as possible.*

Furthermore, concerns were noted regarding the segregation of persons placed in solitary confinement for security reasons being held together in punishment isolation cells (6th Penitentiary Institution).

Another concern related to the conditions of detention is food provision. During the monitoring, it was identified that there is a need for improvement in food provision within the Penitentiary Service institutions. The meals provided were observed to be inadequate and of poor quality, not in line with the menu, and rather seemed to be of a formal nature. The prices of daily necessities in the markets were significantly higher than the current market prices.

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<sup>1</sup> General Report of the CPT, 1991, para. 46

*The Ombudsman calls on the Penitentiary Service to increase attention to aligning food provision and rationing in institutions under its jurisdiction with the standards established by the Cabinet of Ministers.*

**Treatment issues:**

Prisoners and their family members in a number of applications to the Ombudsman complained about unjust placement in disciplinary solitary confinement. The analysis of these complaints, as well as the outcomes of inspections, give us reasons to say that in penitentiary institutions, the application of this type of isolation and its repetition on the same person are common. The existence of these instances signifies a high frequency of regime violations in these institutions and a failure to fulfill the duties related to the rehabilitation of prisoners.

The fact that 40 convicts are kept in the penitentiary at the same time in just one institution (Penitentiary Institution No. 6) proves that this type of punitive measure is applied too much.

In some appeals, convicts complained that special means were used illegally (Penitentiary Institutions Nos. 6 and 10). During visits, the discovery of special restraint means such as handcuffs and rubber batons in places not intended for their storage shows that the allegations about ill-treatment reflect the truth.

It should be noted that the documentation regarding the application of special measures in the penitentiary institution is formal; therefore, it is difficult to draw any conclusions about the frequency and consistency of the use of these measures.

The implementation period, limits, and grounds of the application of special measures stated in the 'Regulations on Security Measures and their Application in the Penitentiary System of the Republic of Azerbaijan', should be expediently brought into compliance with the *United Nations Minimum Standard Rules for the Treatment of Prisoners*, *European Prison Rules*, as well as the *CPT (European Committee for the Prevention of Torture)* and the *SPT (Subcommittee on Prevention of Torture) Recommendations as urgent measures*.

The Ombudsman takes the view that for strengthening rehabilitation efforts, the application of modern approaches and using good practices from other countries are essential.

During the visits, defects are also revealed regarding the "quarantine places" for new people admitting the institution, which means that the treatment in the institutions is not properly organized. During the confidential interviews with detained persons they reported that there are problems with the timely release of the prisoners who have just been admitted to the penitentiary, and that some prisoners have been kept in quarantine for a longer period of time. Therefore, the Ombudsman proposed to organize educational events for the management and employees of the Penitentiary Service in order to prevent such situations that can be considered ill-treatment and limit the rights of prisoners, and to organize the requirements of the procedural legislation and the treatment of prisoners in accordance with human dignity.

### ***Registration issues:***

It is essential to implement a unified and systematic electronic registration process by integrating the existing systems of relevant institutions for detained, arrested or imprisoned persons to ensure access to their information.

During registration-related monitoring, various aspects concerning a convict in penitentiary institution (or an arrested person ), including the individual's identity, reasons for deprivation of liberty, duration of detention, admission, release and transportation from the institution (for interrogation and court hearings), return to the facility, health and physical condition, appearance before the court, and the application of disciplinary measures are subject to investigation.

While examining the registration logs of detention centers and quarantine facilities, as well as studying the decisions related to transfers to these places, shortcomings have been observed regarding compliance with time and duration, including release periods. Sometimes records exist regarding the transfer to detention centers, but information about the release is not recorded.

*The Ombudsman recommends the improvement of a comprehensive registration system, which is a crucial provision for safeguarding rights and protecting people from instances of ill-treatment.*

### ***Medical assistance:***

The Ombudsman's Call Center has been a successful tool in performing preventive actions. As a result of the investigations of incoming complaints, the issues, such as the health condition and medical treatment of detainees, as well as matters concerning the transfer to the Medical Institution under the Penitentiary Service have been resolved.

*During detention, the inmate A. (App.No № 4915-21) contacted the Ombudsman, stating that he was suffering from depression and experiencing serious mental health issues, and requested necessary medical assistance.*

*After the Ombudsman's appeal to the Ministry of Justice of the Republic of Azerbaijan, that person, who was serving his sentence in the Penitentiary Institution No.10 was transferred to a Medical Institution and provided with the required medical care.*

*Applicant M. (App.No 2/4333-21) called the Ombudsman, reporting about the deteriorating health of the prisoner spouse, A., and requested assistance in arranging for his medical examination and treatment.*

*After the Ombudsman's appeal to the Main Medical Institution of the Ministry of Justice, that person was transferred to a Medical Institution. Various specialized doctors, including specialists from the Republic Neurosurgery Hospital of the Ministry of Health, conducted examinations and consultations and arranged for MRI examinations.*

One of the shortcomings encountered in medical institutions is the presence of expired medications in cabinets. This raises the possibility that persons in custody may either be treated with outdated medications or, due to the lack of necessary medications, may not receive appropriate treatment.

*The Ombudsman deems it necessary to have seals on the medication packets in facilities where persons cannot leave at their own will, prohibiting the sale of medications that have expired and reinforcing supervision over the usefulness of medication.*

It has also been observed that essential medical equipment, such as X-ray and ultrasound devices, is not operational in these facilities. It is crucial for the effective delivery of medical care to detained persons to have necessary medical equipment in working condition and specialized professionals capable of operating it for an initial medical examination and treatment.

During the investigation of registration issues in the medical-sanitary section, the absence of medical booklets and medical records was found. It was also observed that some people are held in the medical-sanitary section with privileged conditions created unnecessarily (Penitentiary Institution No. 10). This leads to a lack of space for those genuinely in need of medical care, hindering their access to medical services. The CPT notes that prisoners should have the possibility of requesting a medical doctor at any time. Medical services should be organized in such a way that medical consultations can be provided without unnecessary delays.<sup>2</sup>

*The Ombudsman considers it important to increase oversight over the precise registration process to ensure the accessibility of medical services for individuals.*

***Right to access the phone:***

During the monitoring visits to Penitentiary Facility No. 6, it was found that a negative practice regarding phone calls (additional phone calls available for a certain fee) creates obstacles for persons entitled to phone call rights within the specified legal periods due to the congestion. However, according to international standards, detained persons, particularly prisoners, should be provided with an adequate number of phones to prevent prolonged waiting times for phone usage.

*The Ombudsman considers it essential to fully ensure the legal right to telephone communication for detainees and prisoners, acknowledging that phone communication is one of their most important means of communication with the outside world.*

**Related to the institutions subordinated to the Ministry of Internal Affairs:**

During the monitoring visits, some detainees complained that they were subjected to a strip or partial body search while admitted to the temporary detention facilities. Therefore, the Ombudsman suggests conducting body search of detainees upon admission to the facility using the necessary technical tools. This will lead to the application of modern technologies into practice and also uphold the dignity and rights of the detained persons.

Ensuring timely access to legal counsel for detainees under police custody is crucial as a significant safeguard against potential misconduct.

Analysis of complaints addressed to the Ombudsman shows that there are still ongoing problems related to the right of detainees under police custody to meet with their lawyers.

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<sup>2</sup> CPT/Inf(92)3

*Applicant, a lawyer R. (App. No. 13027-21) contacted the Ombudsman's Call Center, reporting that his client, was held at the Absheron District Police Department. However, he was not allowed to meet with him, and he requested appropriate assistance as provided by the law. This complaint was promptly investigated, and the right of the lawyer to meet with his client was ensured.*

*Applicant, a lawyer A. (App. No. 21087-21) contacted the Ombudsman's Call Center, reporting that he was not permitted to meet with his client who was held at the Guba District Police Department. He requested the necessary assistance.*

*With the Ombudsman's intervention, the lawyer was able to meet with his client.*

During the monitoring visits to the temporary detention centers of city and district police offices, units and departments, subordinated to the Ministry of Internal Affairs of Azerbaijan, immigration detention centers for irregular migrants, as well as during examining the incoming applications, the issues of the lawfulness of detentions, adherence to prescribed periods, registration, and documentation have been thoroughly examined. Individual interviews with detainees were held, and the legal grounds and their detention conditions were assessed. In addition, whether they have been subjected to any ill-treatment during their detention and upon being taken into custody, has been investigated.

Furthermore, as a result of the analysis of applications received during monitoring visits as well as verbal requests received by the Ombudsman's Call Center, it has been revealed instances of violations by the police procedural norms and of detention exceeding the prescribed legal periods.

During the monitoring of temporary detention places, it has been observed that the results of COVID-19 tests taken from detainees are delayed up to one week, which does not comply with the legally established period for the transfer of such persons to the pre-trial detention places and other institutions.

Expressing concern about this matter, the Ombudsman recommends taking measures to ensure the prompt delivery of COVID-19 test results of detainees, considering specific circumstances and the ongoing pandemic.

*Throughout the year, the calls received by the Ombudsman's Call Center, particularly in January and February, were regarding alleged unlawful detentions related to the violation of quarantine rules by the police. The complainants claimed that people were taken to the police for violating quarantine rules, and were informed that they would not be released unless the relevant fine was paid. After investigations into some of these cases, the detainees were released. Consequently, the number of such cases has decreased in recent times due to measures taken.*

*Applicant S. ( App. No. 998-21) appealed to the Ombudsman, stating that his father was detained by the police officers of the Khazar District Police Department for allegedly violating special quarantine rules during the pandemic and that his father would be released only upon payment of the fine. So, he asked for an*



*assistance. With the Ombudsman's intervention, the applicant's father was released.*

The Ombudsman recommends holding awareness-raising events for the police authorities and strengthening oversight of these matters, considering the importance of ensuring the right of detainees to receive legal aid, and meet with their lawyers.

According to the legislation, law enforcement authorities are responsible for informing a detainee about his rights. Therefore, the Ombudsman takes the view that the attention to the issues related to informing detainees about their rights should be increased.

Either based on international practices or national legislation or an analysis of the outcomes of preventive visits shows that if comprehensive registration of all information about the detained person, including all procedural actions (reasons and duration of detention, informing about rights, recording injuries, contacts with relatives and lawyers, provision of food, time of interrogation, medical care, transfers, and releases) are conducted, the legal protections for detainees will be strengthened. The lawyer for the detainee should also have access to these registration records.

According to international standards, registration issues are important with a view to effectively protecting detainees. The Ombudsman also recalls the significance of a unified, comprehensive, and impartial registration system.

#### **Regarding state child institutions:**

The number of visits to childcare institutions increased in 2021 and accounted for 30% of all monitoring visits. This is a consequence of the creation of a new structural unit on the protection of child rights within the premises of the Ombudsman Office, the recruitment of a child psychologist directly involved in the NPG, and purposeful collaboration with UNICEF. During monitoring, interviews were conducted with 117 children, both individually and in groups in order to investigate treatment standards, and the situation regarding raising awareness among children and their rights aimed at increasing child participation.

The proposals for the elimination of shortcomings identified in these institutions during monitoring visits were addressed to relevant state authorities. Thus, during the monitoring of child boarding schools, it was found that there were no individual plans for children in child institutions, which contradicts clause 3.7. Rules on the Admission, and Release of Children to State and Municipal Children's Home Social Service Institutions, Organization of Services in Children's Homes, as well as Rules on the Provision and Living Conditions of Children in Children's Homes," approved by the Cabinet of Ministers' Decision No. 112 dated April 26, 2021. According to these rules,

an individual plan for every child reflecting the form, type, and duration of social services.

While Rule 3.6 of the mentioned Rules indicates that services in children's homes are implemented by psychologists, social workers, and social service workers. However, the Model Staff Regulations regarding the Heads of Children's Homes, Pedagogical, Administrative-Managerial, Teaching-Assistant, and Service Staff,

approved by Decision No. 172 of the Cabinet of Ministers of Azerbaijan dated July 13, 2006, do not consider the staff unit "social worker."

The Ombudsman recommends making relevant amendments to the existing regulations to include a staff unit for "social worker" in the staff table of children's homes, underlining the importance of preparing an individual plan for the comprehensive development of children.

Systematic shortcomings were identified in the organization of psychological services during monitoring visits conducted to child institutions, including boarding schools. It has been observed that the activity directions of the psychological service specified in the "Law on Psychological Assistance" of Azerbaijan and the "Rules on the Organization of Psychological Services in Educational Institutions" approved by the Decision of the Cabinet of Ministers of Azerbaijan dated April 30, 2020, are not implemented. Furthermore, in some institutions, psychologist positions are vacant, and there were lack of didactic materials.

The Ombudsman considers it important to increase attention to the mental health of children for the purpose of ensuring their health and development rights and emphasizes the significance of elimination of existing shortcomings.

Many of the shortcomings found in the institutions have been eliminated with the Ombudsman's interventions, and the situation has been taken under control during follow-up visits. E.g., shortcomings related to ensuring the health and education rights of children in orphanages have been overcome, and school-age group furniture and equipment in the orphanage No. 2, have been renewed and replaced in accordance with the age and development of the children. In the same institution, the resident children were registered for music schools and sports clubs in order to effectively organize their leisure time. Document-related deficiencies have also been resolved. In the orphanage No. 3, for effective organization of education rights of children and preventing online truancy and considering the Ombudsman's recommendation, cameras were installed on computers. Also, new regulations governing the activities of both institutions have been developed.

The shortcomings related to ensuring the right to education in Special Boarding School No. 9 located in Baku, have been eliminated. Speech therapy services provided to children have been organized outside of teaching hours in accordance with the regulations. In Special Boarding School No. 5 for children with limited health opportunities, documentation related to temporary leave of children from the institution has been documented. Additionally, proper lighting arrangements have been provided in the dormitory of the school in accordance with relevant standards.

#### **Regarding the institutions of the Ministry of Health:**

Based on the Ombudsman's appeal, some of the identified shortcomings in the organization of medical services and the conditions of stay at Baku Children's Home No. 1 have been partially solved. Temporary specialists have been recruited for psychological work with children. However, the lack of continuity in the implemented measures is a cause for concern.

As is known, the majority of children placed in the orphanage have experienced negative childhood experiences, and as a result, the likelihood of facing health and social risks in the future is higher. This emphasizes the necessity of rehabilitation and socio-psychological work.

The effective performance of the mentioned duties requires continuous training for employees working with children, focusing on care, early development, aspects of child psychology, early detection, prevention, and early intervention. It is crucial to enhance social-psychological skills and knowledge levels.

The Ombudsman recommends amending Decision No. 61 on the "Model Statute of Educational Institutions Financed from the Budget," dated May 29, 1996, by the Cabinet of Ministers of Azerbaijan with the aim of including positions such as child psychologist and specialist in early childhood development in children's homes.

Serious shortcomings in detention conditions and documentation at the Psychiatric Hospital No. 1 (in Mashtagha settlement), Sumgayit and Sheki psychiatric institutions subordinated to the Ministry of Health of Azerbaijan have been resolved with the Ombudsman's intervention. However, attention should be increased to improve the conditions of detention, enhance rehabilitation measures, address staffing issues, and continue activities aimed at social rehabilitation at the Republic Psychiatric Hospital, Sumgayit City Psychiatric Hospital, and Sheki District Psychiatric Hospital.

It is observed that there is a lack of specialized staff in psychiatric institutions subordinated to the Ministry, which complicates the effective organization of medical treatment. Taking into account the necessity of conducting the treatment process by a multidisciplinary team, it is recommended to involve not only medical psychiatrists but also psychologists, social workers, occupational therapists, and art therapists in this process.

## **Chapter 4**

### **THE DIRECTIONS OF OTHER ACTIVITIES TAKEN UNDER THE NATIONAL PREVENTIVE MECHANISM**

During the year 2021, the Ombudsman's activities under the NPM mandate were not limited to monitoring visits alone. In addition, to the monitoring of institutions where persons cannot leave on their own will, and investigations into complaints submitted to the Ombudsman, as well as legal awareness campaigns, and effective collaboration with the public and international organizations were conducted.

#### **4.1. LEGAL EDUCATION**

During monitoring visits, legal awareness-raising events for service personnel in the Penitentiary Service institutions, temporary detention facilities, educational, healthcare, and other facilities and individuals detained in those institutions were conducted, and legal advice on raised issues was provided.

In 2021, the Ombudsman Office distributed educational publications, covering various human rights areas, as well as informative publications produced by UNICEF Azerbaijan, especially related to the COVID-19 pandemic, including posters reflecting the contact information of the 916 Call Center in the institutions monitored.

During the visits held by the NPG members in child facilities, several legal awareness events were implemented. Training sessions were organized with the participation of both children and facility employees, and staff of the Ombudsman Office, particularly those working in the child rights protection unit. The training sessions covered topics on existing normative legal acts and child rights protection mechanisms. During the sessions, the issues of discrimination and combating methods, protection of children against child abuse, exploitation, negligence, and violence, early marriage, child labor, and protection from harmful effects have also been addressed.

The Ombudsman initiated training institutions providing personnel training for law enforcement authorities, including the Justice Academy of the Ministry of Justice and the Police Academy of the Ministry of Internal Affairs, and continued their collaboration to enhance legal knowledge. Within this framework, the head and members of the NPG run lectures on the "Role of the Ombudsman in the Protection of Human Rights" and "NPM Activities of the Ombudsman of Azerbaijan." These presentations were for the employees of the Penitentiary Service of the Ministry of Justice, the Main Medical Institution, as well as legal practitioners preparing for notarial activities.

The presented presentations provided comprehensive information to the listeners on the initiatives and proposals of the Ombudsman, taking into account the reforms implemented in the national legislation of the Republic of Azerbaijan, the Ombudsman's activities in protection of human rights and in under the NPM mandate, approaches taken

in the investigation of detention conditions, and issues related to respect based on international standards.

The NPG members participated in various events throughout the year. E.g., several employees from the Department for Prevention of Torture participated in a seminar organized on the topic of judicial safeguards in international humanitarian law. The events dedicated to the presentation of the Third Geneva Convention's updated Commentary at ADA University were particularly significant in this regard.

#### **4.2 PUBLIC AFFAIRS AND INTERNATIONAL COOPERATION**

In 2021, within the Ombudsman's NPM jurisdiction, work continued in the direction of exchanging information and experience with the public, mass media, non-governmental organizations, regional and international organizations, as well as foreign NPMs. Mutual participation in the events and the organization of joint activities were prioritized.

Throughout this year, 25 press releases were issued regarding the activities of the NPM. Among them, 21 were related to the implementation of monitoring visits by the Ombudsman and NPG members, 1 was related to the execution of a pardoning decree, and 3 were related to other events.

Press releases, as well as NPM reports, information about the composition of the NPG, and relevant legal and normative acts have been placed under a special column on the Ombudsman's official website in both Azerbaijani and English. In addition to being available on the official website, the reports have been sent to relevant state institutions and international organizations.

On May 27, 2021, the Ombudsman, Sabina Aliyeva, had meetings with Arian Bauer, the head of the International Committee of the Red Cross (ICRC) delegation in Azerbaijan. During the meeting, information about the Ombudsman's activities, including the non-provision of accurate maps of mines buried by Armenia in Azerbaijani territories during the occupation period, as well as information about Armenia's provocative actions committed after the tripartite statement signed on November 10, 2020, confirming the cessation of hostilities between Azerbaijan and Armenia, was provided. The Ombudsman also gave information about her repeated visits to the members of armed groups of Armenia being arrested on Azerbaijani territory after the signing of the tripartite statement, who were accused of committing crimes on Azerbaijani territories and conducted investigations against them. The Ombudsman also informed the guests that the ad hoc reports about the outcomes were sent to relevant international organizations.

The Adviser on Prison Systems of the ICRC Regional Office and staff of the ICRC Azerbaijan delegation were received at the Ombudsman Office. During the meeting, discussions were held on prospects for collaboration with NPG members.

The guests were provided with detailed information about the Ombudsman's NPM activities, and discussions on suggestions and recommendations were held, projects for collaboration were discussed, and various questions were answered.

At the meeting, information about the NPM and its new composition, as well as the activity directions, calls made during the pandemic, and monitoring visits held to places where persons cannot leave on their own will, and the effective collaboration between the Ombudsman Institution and the ICRC, were discussed.

Cooperation between the ICRC's national representation and the Ombudsman Institution continued last year. As is known, the ICRC initiates visits to places of deprivation of liberty on the territory of the Republic of Azerbaijan to assess the conditions of detention and treatment of detainees. ICRC representatives conduct individual interviews with detainees during these visits. Some detainees during ICRC visits request meetings with representatives of the Ombudsman Office. Throughout 2021, several similar requests were received by the Ombudsman Office, and those persons were received by NPG members during visits.

The NPG members participated in the meeting between the Ombudsman, Sabina Aliyeva, and the head of the Bar Association of Azerbaijan at the Office, Anar Baghirov, and representatives of the BAR.

Furthermore, the head and members of the NPG, along with other workers of the Department for Prevention of Torture, actively participated in numerous online events.

## Chapter 5

### Recommendations and Suggestions

As per the analysis of the findings under the NPM mandate, for the purpose of ensuring the effective protection of the rights of detainees, the Ombudsman puts forward the following recommendations:

#### **For the improvement of the legal framework**

(1). To make necessary additions and amendments to the relevant legislation regarding the provision of medical services, including medical examination and treatment for the arrested, persons subjected to determinate sentences, as well as those who were life-imprisoned at the expense of the state when it is not possible to do so within the Penitentiary Service Medical Institution, in order to effectively protect the right to health of such persons;

(2). To develop a mechanism for persons serving sentences in penitentiary institutions to participate in admission exams for higher education institutions;

(3). To include a position for "a social worker" in the Model Staff Regulations regarding the Heads of Children's Homes, Pedagogical, Administrative-Managerial, Teaching-Assistant, and Service Staff, approved by Decision No. 172 of the Cabinet of Ministers of Azerbaijan dated July 13, 2006;

(4). To amend Decision No. 61 on the "Model Statute of Educational Institutions Financed from the Budget," dated May 29, 1996, by the Cabinet of Ministers of Azerbaijan with the aim of including positions such as child psychologist and specialist in early childhood development in children's homes;

(5). To expedite the amendments and additions to the Code for Execution of Punishments regarding the provision of opportunities for incarcerated people to contact their family members and close people through video calls;

(6). To speed up the adoption of the draft law on providing female inmates with hygiene products specified in international standards;

(7). To amend the legislation regarding the payment of detained persons and convicts' inter-district phone calls by the state;

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

- (1) To conduct a body search of persons while admitting them to the temporary detention place without being fully undressed and with the use of necessary technical equipment;
- (2) To take practical steps and strengthen oversight to eliminate obstacles encountered in the experience of obtaining legal aid, and meeting with lawyers by persons detained by the police;
- (3) To take serious measures against detention by law enforcement authorities beyond the specified periods in legislation;
- (4). To increase control over the shelf life and storage conditions of medicaments;
- (5). To increase control over the issue of communication with family members of detainees (via phone, etc.);
- (6). To strengthen control over the unified and comprehensive registration system, documentation, and registration process;

### **Suggestions to the Ministry of Justice**

- (1). To take steps to eliminate the problem of overcrowding in penitentiary institutions and speed up the construction process of the institution under construction;
- (2). To increase the control of issues of separation of different categories of detainees (minors (juveniles) and adults, former convicts, and first-time offenders) in Penitentiary Institutions;
- (3). To reduce the practice of transferring persons to the punishment cell in penitentiary facilities as much as possible;
- (4). To ensure the provision of necessary equipment, including an MRI device, in the Treatment Facility of the Penitentiary Service and the Specialized Treatment Facility to improve the quality of medical services provided to detainees and prisoners;
- (5). To increase control over the expiration dates and storage conditions of medicaments;



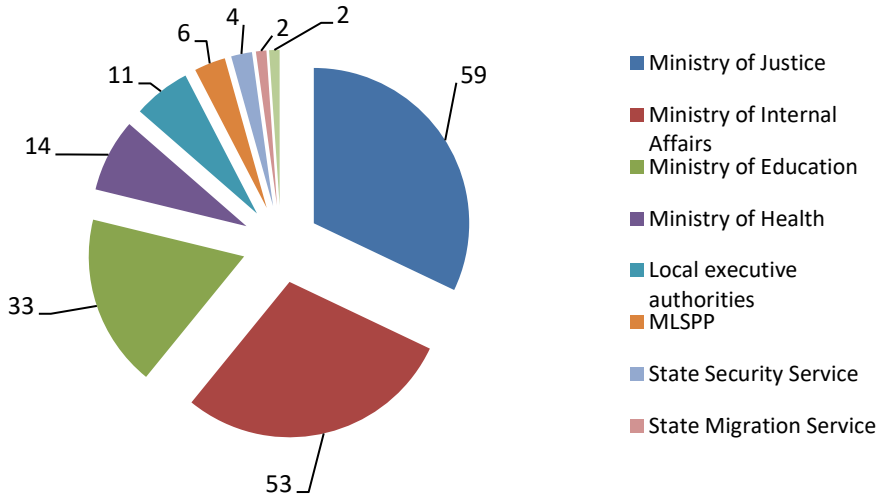
### **Other Suggestions**

(1). To provide relevant services to children by developing an individual plan, reflecting the form, type and duration of social service for each child as specified in clause 3.7. Rules on the Admission, and Release of Children to State and Municipal Children's Home Social Service Institutions, Organization of Services in Children's Homes, as well as Rules on the Provision and Living Conditions of Children in Children's Homes," approved by the Cabinet of Ministers' Decision No. 112 dated April 26, 2021.

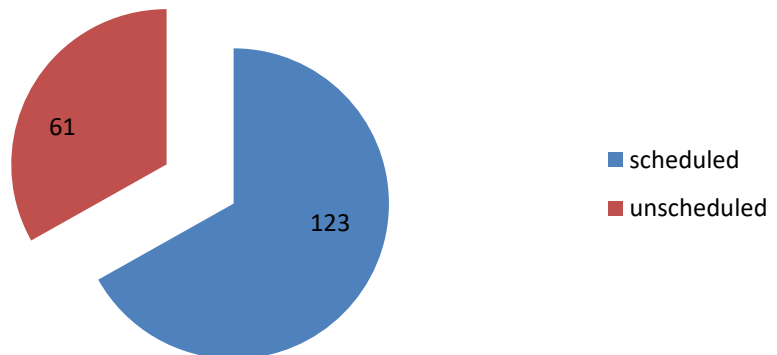
(2). To strengthen attention to the mental health of children and improve psychological services with the aim of ensuring the health and development rights of children in state child institutions;

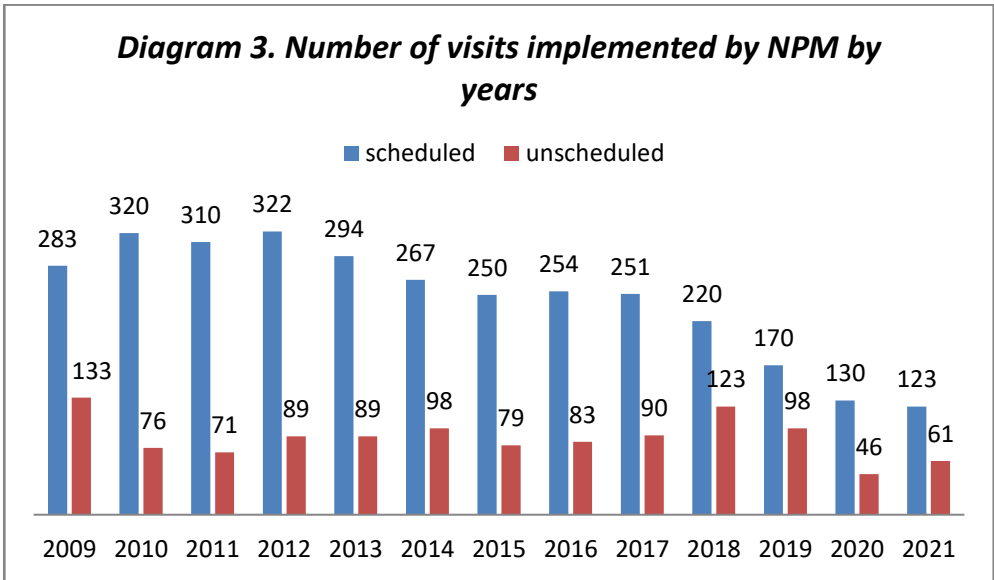
(3). To refrain from the use of isolation rooms and the application of special means in psychiatric institutions under the Ministry of Health.

**Diagram 1. Distribution of Preventive visits carried out as NPM by institutions**

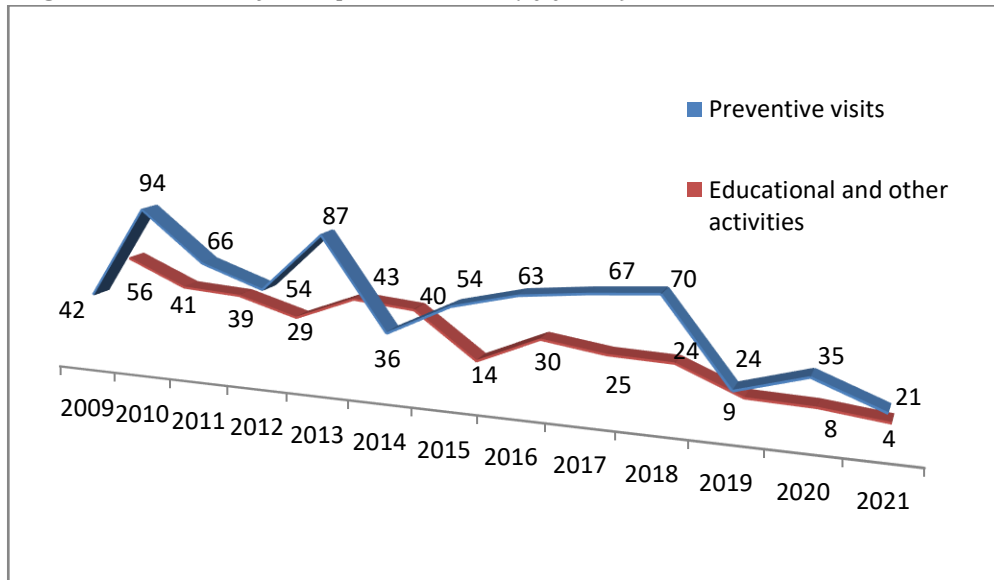


**Diagram 2. Number of NPM visits conducted in 2021**





**Diagram 4. Number of NPM press releases (by years)**



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

**Preamble**

The States Parties to the present Protocol,

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

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

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

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

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

Recalling also that the 1993 World Conference on Human Rights firmly declared that efforts to eradicate torture should first and foremost be concentrated on prevention and called for the adoption of an optional protocol to the Convention, intended to establish a preventive system of regular visits to places of detention,

Convinced that the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or

punishment can be strengthened by non-judicial means of a preventive nature, based on regular visits to places of detention,

Have agreed as follows:

## **Part I**

### **General Principles**

#### ***Article 1***

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

#### ***Article 2***

1. A Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture (hereinafter referred to as the Subcommittee on Prevention) shall be established and shall carry out the functions laid down in the present Protocol.
2. The Subcommittee on Prevention shall carry out its work within the framework of the Charter of the United Nations and shall be guided by the purposes and principles thereof, as well as the norms of the United Nations concerning the treatment of people deprived of their liberty.
3. Equally, the Subcommittee on Prevention shall be guided by the principles of confidentiality, impartiality, non-selectivity, universality and objectivity.
4. The Subcommittee on Prevention and the States Parties shall cooperate in the implementation of the present Protocol.

#### ***Article 3***

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

#### ***Article 4***

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

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

### **Part II**

#### **Subcommittee on Prevention**

#### ***Article 5***

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

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

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

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

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

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

### ***Article 6***

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

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

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

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

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

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

### ***Article 7***

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

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

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

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

(d) Elections of the members of the Subcommittee on Prevention shall be held at biennial meetings of the States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Subcommittee on Prevention shall be those who

obtain the largest number of votes and an absolute majority of the votes of the representatives of the States Parties present and voting.

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

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

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

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

### ***Article 8***

If a member of the Subcommittee on Prevention dies or resigns, or for any cause can no longer perform his or her duties, the State Party that nominated the member shall nominate another eligible person possessing the qualifications and meeting the requirements set out in article 5, taking into account the need for a proper balance among the various fields of competence, to serve until the next meeting of the States Parties, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

### ***Article 9***

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

### ***Article 10***

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



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

- (a) Half the members plus one shall constitute a quorum;
- (b) Decisions of the Subcommittee on Prevention shall be made by a majority vote of the members present;
- (c) The Subcommittee on Prevention shall meet in camera.

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

### **Part III**

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

##### ***Article 11***

1. The Subcommittee on Prevention shall:

- (a) Visit the places referred to in article 4 and make recommendations to States Parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
- (b) In regard to the national preventive mechanisms:
  - (i) Advise and assist States Parties, when necessary, in their establishment;
  - (ii) Maintain direct, and if necessary confidential, contact with the national preventive mechanisms and offer them training and technical assistance with a view to strengthening their capacities;
  - (iii) Advise and assist them in the evaluation of the needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
  - (iv) Make recommendations and observations to the States Parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;
- (c) Cooperate, for the prevention of torture in general, with the relevant United Nations organs and mechanisms as well as with the international, regional and national institutions or organizations working towards the strengthening of the protection of all persons against torture and other cruel, inhuman or degrading treatment or punishment.

## ***Article 12***

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

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

## ***Article 13***

1. The Subcommittee on Prevention shall establish, at first by lot, a programme of regular visits to the States Parties in order to fulfil its mandate as established in article 11.
2. After consultations, the Subcommittee on Prevention shall notify the States Parties of its programme in order that they may, without delay, make the necessary practical arrangements for the visits to be conducted.
3. The visits shall be conducted by at least two members of the Subcommittee on Prevention. These members may be accompanied, if needed, by experts of demonstrated professional experience and knowledge in the fields covered by the present Protocol who shall be selected from a roster of experts prepared on the basis of proposals made by the States Parties, the Office of the United Nations High Commissioner for Human Rights and the United Nations Centre for International Crime Prevention. In preparing the roster, the States Parties concerned shall propose no more than five national experts. The State Party concerned may oppose the inclusion of a specific expert in the visit, whereupon the Subcommittee on Prevention shall propose another expert.
4. If the Subcommittee on Prevention considers it appropriate, it may propose a short follow-up visit after a regular visit.

## ***Article 14***

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

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

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

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

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

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

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

## ***Article 15***

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

## ***Article 16***

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

2. The Subcommittee on Prevention shall publish its report, together with any comments of the State Party concerned, whenever requested to do so by that State

Party. If the State Party makes part of the report public, the Subcommittee on Prevention may publish the report in whole or in part. However, no personal data shall be published without the express consent of the person concerned.

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

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

## **Part IV**

### **NATIONAL PREVENTIVE MECHANISMS**

#### ***Article 17***

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

#### ***Article 18***

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

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

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

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

### ***Article 19***

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

- (a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;
- (b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;
- (c) To submit proposals and observations concerning existing or draft legislation.

### ***Article 20***

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

- (a) Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;
- (b) Access to all information referring to the treatment of those persons as well as their conditions of detention;
- (c) Access to all places of detention and their installations and facilities;
- (d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the national preventive mechanism believes may supply relevant information;
- (e) The liberty to choose the places they want to visit and the persons they want to interview;
- (f) The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

### ***Article 21***

1. No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the national preventive mechanism

any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

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

### ***Article 22***

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

### ***Article 23***

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

## **Part V**

### **DECLARATION**

### ***Article 24***

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

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

## **PART VI**

### **FINANCIAL PROVISIONS**

### ***Article 25***

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

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

### ***Article 26***

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

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

## **PART VII**

### **FINAL PROVISIONS**

### ***Article 27***

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

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

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

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

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

### ***Article 28***

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

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

### ***Article 29***

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

### ***Article 30***

No reservations shall be made to the present Protocol.

### ***Article 31***

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

### ***Article 32***

The provisions of the present Protocol shall not affect the obligations of States Parties to the four Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 8 June 1977, nor the opportunity available to any State Party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

### ***Article 33***

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



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

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

#### ***Article 34***

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting at the conference shall be submitted by the Secretary-General of the United Nations to all States Parties for acceptance.

2. An amendment adopted in accordance with paragraph 1 of the present article shall come into force when it has been accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment that they have accepted.

#### ***Article 35***

Members of the Subcommittee on Prevention and of the national preventive mechanisms shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions. Members of the Subcommittee on Prevention shall be accorded the privileges and immunities specified in section 22 of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, subject to the provisions of section 23 of that Convention.

### ***Article 36***

When visiting a State Party, the members of the Subcommittee on Prevention shall, without prejudice to the provisions and purposes of the present Protocol and such privileges and immunities as they may enjoy:

- (a) Respect the laws and regulations of the visited State;
- (b) Refrain from any action or activity incompatible with the impartial and international nature of their duties.

### ***Article 37***

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States